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ABSTRACT

This transcript records testimony concerning Senate Bill 2490 which would bar federal aid from being used at colleges that directly or indirectly discriminate against off-campus businesses. The bill responds to difficulties small businesses have in competing with college campus bookstores due to the ability of colleges to channel student financial aid to college businesses and college bookstores. Following opening statements by Senators Lauch Faircloth and Olympia J. Snowe, the transcript presents the full testimonies of the following individuals: Graham Gillette, on behalf of Campus Bookstores, Inc.; William D. Gray, president of Gray's College Bookstore and national chairman of the Campus Area Small Business Alliance; Rob Karr, representing the Illinois Retail Merchants Association, and Anthony Samu, president of the United States Student Association. Also included are comments for the record from: John-Paul de Bernardo, of Campus Area Small Business Alliance; Daniel Lieberman, of Dynamic Student Services; David Longanecker, of the Office of Postsecondary Education, U.S. Department of Education; and Richard C. Yount, Loupots Bookstores of Houston, Inc. (DB)

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ED 435 267

CAN SMALL BUSINESS COMPETE WITH CAMPUS BOOKSTORES?

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

SEPTEMBER 24, 1998

Printed for the Committee on Small Business

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OPENING STATEMENTS

CAN SMALL BUSINESSES COMPETE WITH CAMPUS BOOKSTORES?

THURSDAY, SEPTEMBER 24, 1998

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The Committee met, pursuant to notice, at 10:09 a.m., in room 428-A, Russell Senate Office Building, the Honorable Lauch Faircloth presiding.

Present: Senators Faircloth and Snowe.

STATEMENT OF THE HONORABLE LAUCH FAIRCLOTH, A UNITED STATES SENATOR FROM NORTH CAROLINA

Senator FAIRCLOTH. The hearing will come to order. Good morning. I am sorry we are a little late, but we were voting earlier and we might have to take a short recess in order to vote again.

I have an opening statement which I will read and then we will start with our first witness. I would like to welcome the witnesses here this morning, especially William Gray from Charlotte. Thank you for being with us, Bill.

This fall, millions of students are returning to college campuses and everybody knows that the cost of attending college, universities, has gone up practically every year in the last dozen or more years. So anything we can do to reduce the cost has to be tried, and that is what this hearing is about.

I called this hearing after learning that these increased costs may be the result of some practices that are going on on school campuses, practices that may be urged directly or indirectly by the colleges themselves and the Department of Education. Specifically, I am speaking about obstacles that do not allow students to shop competitively for textbooks. A very real problem is that student financial aid is being channeled almost exclusively to college businesses and college bookstores, on-campus bookstores. Private businesses simply are not able to compete for the money because of the control of the flow of the money by the colleges themselves.

One example of this is the so-called campus card, which cannot be used for off-campus businesses. Another example is that some colleges refuse or obstruct access by off-campus bookstores to even the titles or textbooks going to be required by the teaching staff themselves.

College textbooks can run into hundreds of dollars. Clearly, we need a more competitive situation in this area. I suspect that off-campus bookstores can sell these books for a lot less and thereby save a lot of money for the students. Whether they can or not, they should be given the opportunity. And while we are saving dollars at the schools, we will also be saving money from the Federal Government here. If we could save 1 percent of the amount that is spent on financial aid, it would produce a $500 million savings.

For these reasons, I have introduced S. 2490. It would bar Federal aid from being used at colleges that directly or indirectly discriminate against off-campus businesses. I would hope that the Department of Education should want student choice. In fact, it would seem they would take steps to encourage it. But I was disappointed that the Department would not send a witness for this hearing. They were notified a week ago now and they chose to not send anyone here. I wanted to hear from the agency and hear what they had to say. I do understand they submitted a comment for the record, but I would like very much to have had them here and this is something we will pursue.

I thank you and I would like to go to our first witness this morning and hear from him. As I say, we probably are going to have to be interrupted for a brief recess to allow me to go vote. Our first witness would be Mr. Gillette, Graham Gillette.

STATEMENT OF GRAHAM GILLETTE, PRESIDENT, PINNACLE COMMUNICATIONS, LLC, DES MOINES, IOWA, ON BEHALF OF CAMPUS BOOKSTORES, INC., AMES, IOWA

Mr. GILLETTE. Thank you, Senator. Thank you. Your opening statement hits the nail on the head. This is about power. This is about the control of information, and even more importantly to students, the control of dollars.

Thank you for providing me the opportunity to be here today. My name is Graham Gillette and I represent Campus Book Store of Ames, Iowa. Since 1973, Floyd and Sandra Ballein have been operating this store across the street from the beautiful Iowa State University campus. In sentimental terms to many students and alumni, Campus Book Store is as much a part of the University experience as the Union and the student newspaper, the Iowa State Daily. But I am not here to talk about saving a piece of ISU history. I am here to talk about the cost of educational supplies and the important role Campus Book Store and many private stores across the country play in making higher education affordable.

The answer to the question that you have asked by calling today's hearing, "Can Small Businesses Compete With Campus Bookstores?", is important to every student and parent of a student enrolled in higher education in this country today. For this question is not simply about businesspeople like the Balleins, this question is about the cost of higher education itself.

Marketplace competition is to the consumer of educational goods and services every bit as important as it is to the consumer in every other sector of our economy. If a college or university is successful in becoming the monopolistic provider of these goods and services, in many cases, a small business will be dealt a deadly blow, but the students will pay the price.

My clients, like the others you will hear from today, have been told by university officials that their institution has no interest in driving small business from the market. According to ISU administrators, the university-run bookstore is only providing goods and services to further the educational mission of the institution and that no policy or program they implement is based on increasing university revenue or aimed at hurting my clients' business.

I want to believe these officials, but when the university mails University Book Store advertisements for books and supplies to the home addresses of every incoming freshman and refuses my client access to the same mailing list, the university gains a real marketplace advantage. When a university collects and produces course materials from professors that, like textbooks, students are required to purchase and then the university only provides these materials to the university-run store, the university-run store again gains an unfair marketplace advantage. When the university implements a program that allows students to use a student ID card like a credit or debit card exclusively at university-run enterprises, the university constructs a barrier to competition that is nearly insurmountable.

Each year, Iowa State University sends mailings welcoming their incoming freshman class to campus. These mailings include information about registration, housing, tuition, and many things that a new student needs to know before she arrives in the fall. Invariably, one of these mailings invites students to shop at the university-run store.

In recent years, students have been able to order books and supplies during the summer, long before they step foot on campus. This type of solicitation by the university begins to build customer loyalty to the university-run store before the students ever realize there is an alternative. Off-campus retailers are denied access to the freshman mailing list because the list has been deemed confidential.

I agree that the debate over confidentiality is probably appropriately debated in another forum and not at this Committee. I do not want to waste your valuable time getting off point. The question I wish to raise is this. Should a university enterprise be allowed access to privileged university information that is denied to a private business competitor?

Iowa State University, as do many colleges and universities, compiles articles, course outlines, and other course-related materials required by its professors. A student taking a class that requires such course materials usually purchases them at the time she purchases the course textbook and other related supplies. From time to time over the years, Iowa State University's bookstore managers have withheld these materials from my client. This has meant that the university-run store is the only place a student can purchase the materials.

Like the ability to reach the customer first through the use of protected lists, this translates into an unfair marketplace advantage. Like most consumers, students prefer to shop at one store, regardless of cost, if it saves time. If the Balleins are prevented from stocking their shelves with all of the supplies students need, their store will lose business.

In 1994, Iowa State University began to implement a program that would allow students to purchase books and supplies at the university-run store by simply swiping their student ID through an electronic card reader at the checkout counter. Students would then be billed for these goods and would be allowed to pay for them over time without interest. This easy payment program would clearly give students an incentive to shop at the participating store. The university was not willing to allow a private retailer to participate in the program. After months of negotiation with the Balleins, the university scrapped the program.

This spring, the university began to advertise the implementation of a program they referred to as prepayment. The program would allow students to independently determine how much they plan to spend at the university-run store during the year and be allowed to pay for these goods throughout the entire year. Again, private retailers would not be allowed to offer the plan.

In both cases, my client could not independently replicate the program. A private retailer does not have access to the student records that the university-run retailer does. Even if the private retailer did, the private retailer would have to bill the students separately. The university-run store is able to include its charges in the same bill with tuition and other university billing.

These three examples demonstrate how easy it is for a university to implement a program or policy that could devastate a small business. The Balleins have suffered tremendous financial losses due to ISU's action and have been forced to spend a great deal of time and resources seeking an equal footing in the marketplace.

But the issue before you is greater than one small business. The issue is fair competition, and, ultimately, protecting the consumer. That is why we appreciate your consideration of a bill to protect students by protecting fair market competition for educational supplies. We ask that the bill before you today be strengthened to prevent university and college businesses from implementing unfair trade practices. A university or college business should be subject to the same environmental restraints, including antitrust laws, that any other business is subjected, and a university-run business should not be provided special treatment or protection by the institution.

Thank you for your time.

Senator FAIRCLOTH. Thank you, Mr. Gillette.

We have been joined by the erudite and distinguished Senator from Maine, Senator Snowe. Would you like to make an opening statement?

Senator SNOWE. Thank you. I do have one. I will just ask unanimous consent that it be included in the record.

Senator FAIRCLOTH. Certainly, without objection.

Senator SNOWE. I commend you for your leadership on this issue and for highlighting the problems that have developed. I appreciate it.

Senator FAIRCLOTH. Thank you. You just want to put your statement in the record?

Senator SNOWE. Yes.

Senator FAIRCLOTH. Thank you, Senator Snowe.

[The prepared statement of Senator Snowe follows:]

PREPARED STATEMENT OF SENATOR OLYMPIA J. SNOWE
Senate Committee on Small Business
Hearing entitled "Can Small Business Compete With Campus Bookstores?"
September 24, 1998

I would like to thank Senator Faircloth for calling this hearing.

I understand that the issues we will focus on today stem from the way in which student financial aid is disseminated to students, and result in the inability of privately-owned bookstores to compete with campus bookstores.

Often, when there is surplus financial aid in a student's account after he or she has paid tuition, the student may receive the remainder of the aid award on a debit card or in some other type of account that can be used at campus facilities such as campus bookstores. The problem apparently is that many schools make it difficult for students to use the aid surplus off campus by limiting the use of these cards or accounts to campus stores. I also understand that some schools are reluctant to share course text lists with off-campus businesses. As a result, it is often difficult or impossible for privately owned bookstores to compete with campus bookstores.

I look forward to exploring whether small businesses are able to compete with off-campus bookstores. I also hope to gain an understanding of why schools have implemented these practices.

This is obviously a very important issue, and I have no doubt that there are strong feelings on both sides. I appreciate the opportunity to learn more about this issue, and I will have questions for the witnesses aimed at determining how widespread this problem is, and measuring the impact of these practices on students. I also look forward to learning more about Senator Faircloth's legislation designed to address this problem.

Again, I thank the Chairman for this opportunity to review the competitive playing field between on-campus and off-campus bookstores.

Thank you.

Senator FAIRCLOTH. Next, we will hear from Bill Gray from Charlotte.

STATEMENT OF WILLIAM D. GRAY, PRESIDENT, GRAY'S COLLEGE BOOKSTORE, AND NATIONAL CHAIRMAN, CAMPUS AREA SMALL BUSINESS ALLIANCE, CHARLOTTE, NORTH CAROLINA

Mr. GRAY. Good morning, Chairman Faircloth and Senator Snowe. My name is Bill Gray and it is an honor to appear before you today. I take great pleasure on behalf of the Campus Area Small Business Alliance, CASBA, in supporting a reform of the U.S. Department of Education student aid practices, more fairness and flexibility in college student pricing practices, and more competition between off-campus and on-campus business enterprises, and most directly, in expressing the very strong support of CASBA and its member organizations for S. 2490, the College Costs Savings Act of 1998.

Together with my brother and sister-in-law, we own and operate three off-campus bookstores serving the University of North Carolina at Charlotte, the University of Louisville, and Jefferson Community College in Louisville. We have been in business for 12 years, have more than 125 employees, 90 percent of whom are students. Annual sales exceed $6 million.

Not unlike most other CASBA members, we support the universities with more than $10,000 annually in scholarships and grants to students, including book scholarships to high school seniors. We also sponsor annual awards, such as the Gray's Faculty Member of the Year Award at the University of North Carolina at Charlotte. We are active members of local Better Business Bureaus. In addition, we are also active in the National Federation of Independent Business, which also strongly supports S. 2490.

I also have the privilege of serving as the National Chairman of CASBA, which is a national coalition of more than 350 off-campus bookstores.

While S. 2490 covers all campus area small businesses and all on-campus business-like enterprises, as it should, my testimony today focuses on the monopolization of the college bookstore trade by colleges with the aid of the U.S. Department of Education with its regulations. As with all small businesses, my problems eventually become the customers' problems.

In the face of skyrocketing college costs, a 1998 report from the American Council on Education stated that 80 percent of Americans think that colleges and universities make a profit. The public should think that way, in light of today's testimony, showing increasing nationwide government sanctioned effort by most colleges, including efforts by most community colleges to monopolize the college bookstore trade and increase college revenues at everyone else's expense, especially at the expense of students.

When it comes to non-tuition educational expenses, many educational policy leaders are more than indifferent. Suppression of competition and the inflation of textbook and non-tuition expense demonstrate that they are actually hostile to students, payers, and taxpayers' interests. Off-campus college bookstores are consistently less expensive than university-based enterprises. Our stores typically carry three to five times as many used books as on-campus stores. The student costs of used textbooks average 25 to 31 percent less than when the same book is sold new. Industry data supports this. Off-campus stores are characteristically more aggressive and successful than the institutional stores in obtaining used books. As we all know, competition produces lower costs.

Now we shall consider the dual monopolization of student financial aid in the college bookstore trade. Many student customers and their parents cannot believe that Congress intends any college with the blessing of the Department of Education should be able to manipulate their fiduciary responsibility of Federal financial aid funds into an institution-serving disbursement program. The DOE disbursement regime sets up the structure for these institutions to routinely convert student financial aid to their own economic benefit in a way that is neither publicized to parents nor beneficial to students.

While the DOE pleads that students voluntarily agree to this arrangement, the unwitting student is more truthfully described as being deceived into believing that the allure of the convenience offered by the institution is unquestionably beneficial to the student. The fact is, students are deceived and uninformed as to the full consequences to their wallets and their freedom of choice. For the DOE to speak of free choice or students voluntarily participating in this scheme is an indefensible and reprehensible sleight of hand unworthy of higher education.

I believe, as millions of Americans want to believe, that student financial aid is still intended by Congress to aid students, not on-campus enterprises. I know and students know that the Department of Education does not always quite figure it that way. The last straw for CASBA came in February of this year when CASBA counsel John-Paul de Bernardo met with senior DOE policymakers here in Washington. When queried on this very financial aid question, the official responded quite matter-of-factly, "You do not seem to understand. The Department serves institutions, not students." Senators, I cannot say it any better than that.

S. 2490 only directs the Department of Education to fully carry out its fiscal responsibility to its student beneficiaries. Favoring on-campus over off-campus businesses will end under S. 2490. A student will become truly free to save as much of his or her financial aid money through competitive shopping as the fully competitive area marketplace can provide. In other words, S. 2490 says artificial limitations, like on-campus-only spending mandates, in the students' marketplace will no longer be acceptable practice within a university's discretion as consistent with its role as a fiduciary for students and student funds of all kinds, including financial aid.

Monopolies by their nature cause quality and service to decline. Unfortunately, every day, students witness segments of the higher education world who sometimes practice the opposite of what they teach. How can this be? How can these seats of higher learning become monopolistic seats of higher earning? The simple answer is money, huge amounts of taxpayers' money, students' money, and parents' moneys are at stake, and, thus, there are those within the business arms of some of our colleges and universities who manipulate or attempt to manipulate our university system to their advantage with the help of the Department of Education and against the interest of all of the other parties involved.

All small business retailers in the campus area marketplace are being hurt by this situation, from food providers and laundromats to hardware stores and electronics stores. Like countless other campus-area businesses, many of our members have grown with the campus community they have served since the 1940's and 1950's.

This year, individual CASBA members across the country decided that Federal legislation was the only answer before they were shut out of the campus-area marketplace altogether—and forever. Efforts for redress have had some success, but the basic problems remain. Redress from the Department of Education and the universities themselves have been, to a large degree, consistently fruitless, and, sadly, in too many cases, humiliating. A national meeting among off-campus bookstore owners was held and CASBA was formed to seek your help.

The alliance has grown steadily in membership and in its resolve. Research has been conducted and volunteers are now active nationwide. We have a website. We regularly conduct national conference calls. We have also developed a fax and e-mail network. We work closely with our strongest allies, students and parents.

Our support for S. 2490 is based simply on any American's common sense.

Senator FAIRCLOTH. Mr. Gray, if I may ask you, how much longer do you have?

Mr. GRAY. Senator Faircloth, I have, I believe, three more paragraphs.

Senator FAIRCLOTH. OK. Thank you.

Mr. GRAY. Our support for S. 2490 is based simply on any American's common sense. CASBA neither endorses nor seeks any favorable or special treatment or benefit. A level playing field to compete is a reasonable, fair, and uniquely American small business necessity. CASBA employs thousands of college students and members pay millions in local, State, and Federal taxes of all kinds, and, in fact, we subsidize the Department of Education financial aid programs. Ironically, it hurts students and ourselves. Even more ironically, we subsidize tax-exempt institutional competitors who also enjoy other substantial market advantage, such as location, location, location.

Let me emphasize that CASBA does not resent or object to these two powerful, albeit disadvantageous, built-in institutional advantages. But let me also emphasize, campus-area small businesses should not continue to be penalized for objecting to the imposition of an artifically higher cost, monopolistic culture in the campus-area marketplace.

Senator FAIRCLOTH. Thank you, Mr. Gray.

[The prepared statement and attachments of Mr. Gray follow:]

STATEMENT in support of
THE COLLEGE COSTS SAVINGS ACT OF 1998, S. 2490
By William D. Gray

before the
COMMITTEE ON SMALL BUSINESS
OF THE
UNITED STATES SENATE
September 24, 1998

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I. Introduction

Good morning, Chairman Bond, Ranking Minority Member Harkin, and members of the Committee on Small Business. My name is Bill Gray, and it is an honor to appear before you today. I take great pleasure, on behalf of the Campus Area Small Business Alliance ("CASBA"), in supporting a reform of the U. S. Department of Education's ("DoE") student aid practices, more fairness and flexibility in college student purchasing practices, and more competition between on-campus and off-campus business enterprises, and most directly, in expressing the very strong support of CASBA and its member organizations for S. 2490, "The College Costs Savings Act of 1998."

Together with my brother and his wife, we own and operate three off-campus college bookstores serving student communities at the University of North Carolina at Charlotte, the University of Louisville, and at Jefferson County Community College. We have been in business for 12 years and employ more than 125 employees, 90 percent of whom are students. Annual sales exceed $6 million.

Not unlike most other CASBA members, we support these universities with more than $10,000 annually in scholarships and grants to students – including book scholarships to high school seniors. We also sponsor annual awards such as the Gray's Faculty Member of the Year award at UNC Charlotte. We are active members of local Better Business Bureaus. In addition, we are also active in the National Federation of Independent Businesses, which also strongly supports S. 2490

I also have the privilege of serving as the National Chairman of CASBA, which is a national coalition of more than 350 off-campus college bookstores.

CASBA supports the effort to control non-tuition educational costs for students, parents, and taxpayers – all of whom would benefit if and when this necessary and appropriate legislation is enacted.

This legislation also is critically important to altering a policy and system that permits, and tacitly encourages, a pervasive national abuse of financial aid. We endorse the bill's thrust to ensure a "level playing field" for competition among on-campus business-like enterprises, and off-campus businesses in the campus-area marketplace. S. 2490 treats monopolistic practices as inherently incompatible with the DoE's current fiduciary obligations.

II. Summary

While S. 2490 covers all campus area small business and all on-campus business-like enterprises – as it should - my testimony today focuses on the monopolization of the college bookstore trade by colleges with the aid of the U. S. Department of Education ("DoE") policy and regulations. As with all small businesses, my problems eventually become my customer's problems.

In the face of skyrocketing college costs, a 1998 report from the American Council on Education ("ACE") stated that "80 percent of Americans think that colleges and universities make a profit."[1]

The public *should* think that way - especially in light of the testimony today showing the increasing nation-wide, government-sanctioned efforts by most colleges – including efforts by most community colleges - to monopolize the college bookstore trade and increase college revenues at everyone else's expense – including students. When it comes to non-tuition educational expenses, many education policy leaders are more than indifferent – suppression of competition and inflation of textbook and other non-tuition expenses demonstrate that they are actually hostile to students', parents', and taxpayers' interests.

Off-campus college bookstores are consistently less expensive than university-based enterprises. Our stores typically carry three-to-five times as many used books as on-campus stores. The student cost of a used textbook average thirty-one percent less than the when the same book is sold new. Industry data supports this. Off-campus stores are characteristically more aggressive and successful than institutional stores in obtaining used books in the marketplace. Thus, students have more opportunities to save money. Because the laws of business survival demand it, and because off-campus stores do not have the favored on-campus location and the tax-exempt status of institutional stores, off-campus stores *must* scour the market to bring the lowest priced product to market they can. That is our advantage - *if* competition is allowed in the marketplace.

Higher education policy-makers just see the market differently – they tend to see the market as their private reserve. Non-institutional competition is threatening to their profit-making machinery. The bottom line is that at least some colleges' and universities' campus leadership supports and perpetuates the policy of monopolization that is not - and cannot - be construed or interpreted to be in the interests of their students. If the DoE or this leadership listened to students, they would recognize this.

Most off-campus stores believe that elements within higher education deliberately want to put off-campus stores out of business. In a number of cases, they have succeeded. Be that as it may, there is ample – and credible – evidence to reasonably justify such an attitude.

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[1] American Council on Education ("ACE") 1998 report with the curious title: "Too Little Knowledge is a Dangerous Thing, What the Public Thinks and Knows About Paying for College," page 12, hereinafter referred to as the "ACE Report."

After all, we employ many former on-campus bookstore employees who have seen this attitude in action first hand.

Whenever colleges – or more commonly, their mid-level management - refuse to reveal the titles of required textbooks to off-campus stores, their motive is clear. Off-campus stores routinely hear a wide range of excuses as many collages and universities refuse, delay, or impede the disclosure of textbook titles required by professors and the timing of when these courses will be offered. Plainly, without knowing the titles of required textbooks and related information, off-campus stores are at a huge competitive and practical disadvantage and their economic survival can be put in jeopardy.

Now we shall consider the dual monopolization of student financial aid and of the college bookstore trade. Many student customers, and their parents, cannot believe that Congress intends that any college – with the blessing of DoE - should be able to manipulate their fiduciary responsibility for federal financial aid funds into an institution-serving disbursement program. The DoE disbursement regime sets up the structure for institutions to routinely convert student financial aid to their own economic benefit – in a way that is neither publicized to parents nor beneficial to students. While the DoE pleads that students voluntarily agree to this arrangement, the unwitting student is more truthfully described as being deceived into believing that the allure of the convenience offered by the institution is unquestionably beneficial to the student. The fact is, students are deceived and uninformed as to the full consequences to their wallets and their freedom of choice. For the DoE to speak of free choice or students "voluntarily" participating in this scheme, it is an indefensible and reprehensible sleight of hand unworthy of higher education.

I believe – as millions of Americans *want* to believe – that student financial aid is still intended by Congress to aid students – not college enterprises. I know – and students know - that the Department of Education does not always quite figure it that way.

The last straw for CASBA came in February of this year when CASBA's Counsel, John-Paul de Bernardo, met with a senior DoE policy–maker here in Washington. When queried on this very financial aid question, this official responded quite matter-of-factly – and I quote – "You don't seem to understand: the Department serves institutions, not students."

Senators – I cannot say it any better than that.

Through the door of DoE-structured "student accounts", that is, university-controlled student credit accounts, and aided by the "hands-off" policy of the Department, increasing numbers of universities endeavor to mandate on-campus only spending. These accounts are primarily implemented and administered using university credit vouchers, or the newest and most technologically efficient form of monopolization - "campus cards."

Vouchers permit students to spend prospective financial aid money the university has not received or administered, and voucher use is almost universally restricted to on-campus use only. See Appendix I. Student financial aid dollars – not to mention students' and parents' own funds – can be credited or debited on the card, but <u>only for on-campus use</u>. One sure way to capture a market is to capture the source of your customers' income. In higher education, that means capturing student financial aid intended for student beneficiaries and directing it exclusively to the coffers of the universities' businesses. Is this a Department of Education, or a Department of Monopolization?

In short, competition is generally being deliberately crippled in the campus area marketplace. I urge you to read some of the startling evidence presented in Appendix I to my testimony. While there are exceptions, student financial aid funds are channeled exclusively to its on-campus enterprises; the disclosure of simple textbook information is being obstructed or refused; and the use of campus cards is being prohibited off-campus. This behavior is costly to us all. This is not a model for acting like a fiduciary. Ivy-covered towers are becoming ivy-covered walls – or should I say – covered in green.

S. 2490 lets the market do its work. This legislation assures students that they can always choose the lowest cost alternative in spending their financial aid dollars. No DoE-permitted restriction on that choice can be justified as fulfilling DoE's current fiduciary responsibility to students. Similarly, colleges cannot fulfill their current administrative, fiduciary responsibility if they orchestrate any such restriction in the financial aid disbursement process.

It does no good for Congress to increase financial aid appropriations and guarantees, only to have the DoE ignore its *current* fiduciary obligation to students. Under *any* definition of fiduciary, the DoE surely has a duty to ensure that the benefits of those funds are not decreased or abused by any campus-designed disbursement ruse which forces students to spend financial aid money in an artificially distorted, marketplace.

S. 2490 only directs the Department of Education to fully carry out its fiscal responsibility to its student beneficiaries. Favoring on-campus over off-campus businesses will end under S. 2490. A student will become truly free to save as much of his or her financial aid money through competitive shopping as a fully competitive campus-area marketplace can provide. In other words, S. 2490 says artificial limitations – like on-campus only spending mandates - in the student marketplace will no longer be an acceptable practice within a university's discretion as a fiduciary for students and students' funds of all kinds, including financial aid.

Competition prevents the imposition of sole sourcing on students. Artificial barriers to market entry will be eliminated. Artificially higher costs will no longer be possible because the game will no longer be artificially rigged. S. 2490 restores student choice and permits needy students to stretch precious student financial aid dollars without impeding opportunities for students, parents and taxpayers to save money in the campus-area marketplace. Most importantly, it assures that market pressure will be brought to bear to lower student costs.

In essence, S. 2490 declares that current DoE fiduciary obligations preclude the use of monopolistic practices. In an age of "public anxiety"[2] about college affordability – and that anxiety is rising - S. 2490 is a public necessity.

III. Background

Monopolies by their nature cause quality and service to decline, while prices artificially rise. Professors at every business school in America teach the negative economic consequences of monopolization. We all recognize that consumers are universally hurt by monopolization.

Unfortunately, every day students witness segments of the higher education world who sometimes practice the opposite of what they teach. How can this be? How can these seats of Higher Learning become monopolistic seats of Higher Earning? The simple answer is money. *Huge* amounts of taxpayers' money, students' money, and parents' money are at stake – and thus there are those within the business arms of some of our colleges and universities who manipulate, or attempt to manipulate, our university system to their advantage with the help of the Department of Education and against the interests of *all* the other parties involved. I have

[2] The National Commission on the Cost of Higher Education 1998 Report entitled "Straight Talk About College Costs and Prices," page 1. (Hereinafter referred to as "The National Commission Report".)

spoken to many people about these problems, and there is a feeling by many that the college practices and the DoE's policies we have described are costly, unfair, and unjust.

All small business retailers in the campus area marketplace are being hurt by this situation - from food providers and laundromats to hardware stores and electronics stores. Like countless other campus-area businesses, many of our members have grown with the campus community they serve since the 1940s and 1950s. Some predate this century.

This year, individual CASBA members across the country decided that federal legislation was the only answer before they were shut out of the campus-area marketplace altogether. Efforts for redress have had some success[3], but the basic problems remain. Redress from the Department of Education and the universities themselves have been to a large degree, consistently fruitless – and, sadly, in too many cases, humiliating.

A national meeting among off-campus bookstore owners was held, and CASBA was formed to seek your help. The Alliance has grown steadily in membership – and in its resolve. Research has been conducted, and volunteers are now active nation-wide. We have a website. We regularly conduct national conference calls. We also have developed a fax and e-mail network. We work closely with our strongest allies – students and parents.

In addition, CASBA and its member organizations have initiated numerous student petition drives. Students have signed many petitions seeking redress from universities - the same reasons that bring us here today. For example, a sample petition signed by over 4,000 students from Southwest Missouri State University appears in the Appendix to my testimony.

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[3] Illinois and Alabama passed modest legislation to address stop campus cards being restricted to on-campus use only. Michigan this year has an Appropriations bill which, in section 426, reads as follows: It is legislative intent that private bookstores that sell textbooks to university students and student governments that provide a book swap for university students have accurate and timely access to lists of university required textbooks in order to provide prompt and efficient service for students. It is further legislative intent that each state university allow students who are on financial aid or are receiving tuition grants to decide where to purchase their textbooks."

A similar petition from Pennsylvania also is in the Appendix. Senators, you will be pleased to learn that students are become well schooled in the non-Parker Brothers-version of the higher education game of monopoly.

IV. <u>CASBA Support for S. 2490</u>

Our support for S. 2490 is based simply on American citizen common sense. CASBA neither endorses nor seeks any favorable or "special" treatment or benefit. A "level playing field" to compete is a reasonable, fair and uniquely American small business necessity.

CASBA employs thousands of college students, and members pay millions in local, state and federal taxes of all kinds. In effect – and in fact – we subsidize the Department of Education financial aid programs that, ironically, hurts students and ourselves. Even more ironically, we subsidize tax-exempt institutional competitors, who also enjoy another substantial market advantage – location, location, location.

But, let me emphasize that CASBA does not resent or object to these two powerful, albeit disadvantageous, built-in institutional advantages. But let me also emphasize, campus-area small businesses should not continue to be penalized for objecting to the imposition of a monopolistic culture in the campus-area marketplace.

Most entrepreneurial small businesses of any kind, including off-campus college bookstores, have been able to survive – even if increasingly, just barely. In the face of the tax-exempt and location advantages I just mentioned, just consider the alternative if the monopolistic practices I have described are permitted to go on thriving, and at the same time, to go on strangling the student marketplace without S. 2490.

I put it to this Committee: Shouldn't we therefore be apprehensive for students' interests and artificially high costs?

CASBA became convinced that the Department of Education would never take corrective action when we read the June 22, 1998 response from the DoE to Senator Faircloth's questions in his May 16, 1998 letter to Secretary Riley. Both letters are included in the Appendix to my testimony.

The DoE response states that universities are free to make or *not* make *any* arrangements with off-campus businesses.

V. College Costs Crisis And Artificially Higher Costs

The congressionally mandated National Commission on the Cost of Higher Education issued a 1998 Report entitled "Straight Talk About College Costs and Prices." A copy of an Advance Copy this Report has been provided in Appendix IV to my testimony. I will refer to it as "The National Commission Report."

The National Commission Report tells us – perhaps not surprisingly – that there is a [quote] "college cost and price crisis"[4] [close quote] in America and that there is [quote] "public anxiety about college prices"[5] [close quote]. One of the Report's conclusions – conclusions it says, "speak for themselves" - comes as no surprise to CASBA. The Report states and I quote:

> "...the Commission is deeply concerned that most academic institutions have permitted a veil of obscurity to settle over their financial operations and many have yet to take seriously basic strategies for reducing costs."

"The public does not think college is affordable."[6] A huge majority – 71 percent feel that "a four-year college education is not affordable for most Americans."[7] "The public thinks that college leaders are indifferent to their concerns about the price of attending college."[8]

[4] See The 1998 Report, page 2.
[5] See The 1998 Report, page iv.
[6] ACE Report, page 7.
[7] ACE Report, page 7.

Ladies and gentlemen, to millions and millions of other American parents, and millions and millions of college students, college costs have a threat of doom about the dreams they and we have for a better future. I do not claim to have the whole answer to this college cost crisis. What I do know is that more students', parents' and taxpayers' money does not need to be thrown on the college cost inferno due to artificially – and therefore – unnecessary extra costs.

[8] IBID, page vi. which says those college expenses of all kinds – tuition and non-tuition expenses are what the public looks at in evaluating college affordability.

APPENDIX
I

A sample of letters from CASBA off-campus bookstores describing a variety of on-campus monopolistic practices.

A. North Carolina – 5pp
   - Seahawk Book/Allison Keenan
   - University Book Exchange

B. Oklahoma, Tennessee, and Texas – 4pp
   - Boomer

C. Arizona – 1p
   - Arizona Bookstore

D. Arkansas –4pp
   - Campus Bookstore

E. Georgia –1p
   - Georgia Bookstore

F. Kentucky – 1p
   - Vimont & Wills

G. Maryland – 1p
   - Maryland Book Exchange

H. Michigan – 2p
   - Campus Book & Supply

I. South Carolina – 1p
   - South Carolina Bookstore

J. Texas – 4pp
   - Colloquium Bookstores
   - L & M Bookstore
   - Varsity Book Store (2pp)

K. Virginia – 2pp
   - Dominion Bookstore
   - Tech Bookstore

Seahawk Book & Supply

415 S. College Road
(1 Block North of the University)
Wilmington, NC 28403

Phone (910 792-0081
Fax (910) 792-0270

April 27, 1998

Dear John-Paul,

Wanted to get this off to you before anymore time got away from me. Pat and I are glad that you are trying to help make the college textbook industry's playing field flatter. We always felt that we were fighting against an indomitable foe--the government, made even more difficult because it was clothed in the innocence of public education. Any breaks we got, we made ourselves and felt lucky to get them.

As you know school administrators dislike private bookstores. They tend to resent the loss of their monopoly and the idea that someone on the outside might do a better job than they. Without exception the on campus operations have always improved for the students once we opened shop. Competition is a very good thing for the consumer, and that includes college students.

When we open our doors we always experience some manifestation of the schools' resentment towards us. At UTD in Texas, the bookstore manager told us that he hated us (his words) the first day we opened the store, and that he would do everything in his power to see us fail. He committed suicide six months after we opened and I always wondered if we had something to do with it. We then began dealing with the VP of Business Affairs at UTD. He displayed such arrogance and disdain for our legitimate requests for information that we had to involve the Dallas Morning News. In a few short articles, they were able to accomplish for us what we hadn't been able to do for months. The media was not afraid to take on the university system. I will send the articles to you.

Here in North Carolina we have experienced the same attitudes. When we first opened we went to the on campus store and explained that we wanted to work peaceably and fairly in all of our dealings. The very nice manager was quickly replaced by a tough veteran from Virginia. She worked hand in glove with the Assistant Vice Chancellor for Business Affairs to devise a plan to put us out of business. For over a year they sold their books at just above cost. (When overhead and operating expenses were considered they were selling these books at a loss.) When I called the attorney general's office in North Carolina I got nowhere. I said no other store in the system prices their books this way, and they only started doing it after we opened a competitive store. It made no difference at the AG office. When we took our complaint to the Assistant Vice Chancellor's office we were told that according to the university charter they could give the books away if they wanted. I told them then, that I thought they would surely lose money if they continued to sell their books for so little. I was quickly told that it was clear I did not know anything about the bookstore business. After the next rush we met with the Vice Chancellor s office. They admitted that they had indeed lost money over the past year and that they wanted peace. We were only too glad to hear that. They said they would agree to price the books at industry standard if we would not deviate from that price. We had to agree or die.

Last week we met with Dr. McKeithan, the president of Cape Fear Community College. We had specific problems obtaining the course information last semester and we appealed to him for help. He said he doubted whether the lease operator of the on campus bookstore was bound by Freedom of Information statutes and that we needed to wait until his office obtained the book information. So now we have a situation where the bookstore receives its information from one source and at one time and some time after that we might get the same information. Not equal. Not fair. We suggested that the college collect all the information internally and then make it available at the same time to both of us. No way. We asked if we could get on-line with the college to obtain the information the same way the store does. No way. Dr. McKeithan even told us that we were not to contact the academic departments directly to obtain that information. Seems like he is trying every trick in the book to put us at a commercial disadvantage. And who suffers? The students. The bookstore at Cape Fear Community College is the size of a closet. The lines last all afternoon the first few days of class when everyone must purchase their books. We are located less than a block from the school. Students could shop in air conditioned comfort and have a much better chance of purchasing a less expensive used book if they could shop with us. But we need timely access to the book information to give us time to search out used copies. What they are trying is unfair.

About a year ago we asked the University of North Carolina at Wilmington (UNCW) to allow us to process scholarship vouchers from students. The answer was a resounding no. They would do nothing to accommodate us. They would not act as our accountants, they said. I thought that did not seem right so I called the US Department of Education and asked to speak with the head of scholarship funding. I explained my situation. I pay taxes, my taxes are given in the form of scholarships and grants to deserving students, but they are not permitted to use those monies in my store. Seems quite illogical to us. I was told that the current program works with financial aid offices at the various universities and colleges around the country and was not designed to work with private retailers. I went on to explain that we are a college bookstore. Our only customers are college students, faculty and parents. His suggestion was that maybe if I ask the university financial aid office to please permit us to process the vouchers again, they might do it out of the goodness of their hearts. I then asked him if he thought it was fair. He said all he could say is that the current program was not designed to work with private retailers. The current system is unjust. It is unjust to all the small private bookstores in the country and it is unjust to students on scholarships. We could sell them used books for less and give them a choice about where to use their money if the system were altered.

To me one of the best things about what you are attempting to do is that if you succeed I may not have to feel like a criminal anymore--a pesky gnat buzzing around and bothering the school administrators. I might begin to feel like I was legitimately entitled to compete squarely with these institutions. We pay taxes and employ people. We go to church and work on our kids school boards. We don't want to feel ashamed about what we do anymore.

Sincerely,

Alison

Alison Keenan

May 16, 1998

John-Paul, sorry the details of my life are keeping me from the meeting this week. Here is a list of the things I would like to see changed. Good luck with the meeting. Regards, Alison Keenan.

1. We should have access to all of the textbook information at the same time the school store gets it. This is critical. When we get the information days or weeks after the school store, our ability to compete is directly impacted. We compete with the school store for used books. If we must wait for the school store to place orders for books, there will not be as many used books for us to buy. This intentional delay is the most common tactic used to inhibit our sales. In addition, when we do not know about course book information on time, we are unable to pay as much for a book being sold by a student. The student selling the book ends up with less money. This also gives the school store an unfair buying advantage. The solution is simple and fair. Make the textbook information available to all interested at the exact same time. This probably implies a university information office that can be accessed by everyone equally. As it stands now, the bookstore receives the information directly from the academic offices and then chooses when to make it available to us. Of course, this same idea should apply to any changes and additions in information which typically drift in throughout the semester.

2. We should be able to sell books to students on financial aid. We pay taxes to help fund financial aid programs and yet are denied the chance to sell books to these students. Many times we have less expensive used books, but the financial aid student must pay more for new books on campus. This appears contrary to our notions of free trade, and fairness. I believe the system was originally designed for simplicity by the DOE-- in effect it supports anti-constitutional monopolies. I am unsure of the most elegant and simple solution. But somehow students should be allowed to shop where ever they find the best deal.

3. More and more students are finding the debit card an attractive option for paying for services and goods on campus. In the interest of free trade, these should be made available to all interested retailers serving the needs of students and faculty.

4. Every summer incoming freshmen and transferees come to the campus for orientation. Among other activities they are chaperoned through the bookstore, introduced to the bookstore personnel, guided through the shelves and invited to sign up for their textbook reserve program. Nervous freshmen and their parents sign up and pay $650 that is held on account for their books. Despite repeated requests, we have been denied access to these all important student customers during orientation. As a result we do practically no business with incoming students. When one of them does come in, they are usually shocked at the money they could have saved if they had known about our store. This is unfair. We should be allowed the same access to these students and parents as our competion.

5. This point is more difficult to articulate. When discussing the above issues with university administrators, we have been told that they could decide to give the books away to the students at no cost, or they could decide to convert to a textbook rental program--either one would put us out of business in three months. The "be quiet and we might let you stay here" attitude is not fair. My wish is that university administrators accept the notion of competition and behave in a professional and just manner.

910
792
0081 W

Alison Keenan

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East Carolina University off-campus bookstore problems are:

1) No access to financial aid dollars. Over 50% of the school's 18,000 students receive financial aid.

2) No access to the "One Card" on-campus debit card. Student spending is restricted to on-campus only with the card.

3) Massive restrictions (unequal) promotion and marketing access to the students, which is especially hurtful during freshman orientation when the off-campus bookstore is shut out. Freshman are told they should buy their books at the on-campus bookstore, and invited to reserve them for pick-up during the freshman on-campus "tour".

BOOMER BOOK CO. BC

"Students Serving Students"

May 27, 1998

John-Paul De Bernardo
De Bernardo Law Firm
One Twelve Tryon Plaza
Suite 1010
Charlotte, NC 28284

Dear John-Paul:

As per our conversation on Friday, May 22, I am submitting to you some of the problems, situations, and stories I have personally encountered or have heard relating to the college textbook business. I agree this is the single most important issue concerning the private college textbook stores in this country, and I appreciate all your hard work. I apologize that I did not have this information to you sooner, however, it took much longer than expected to collect all the information you requested.

I currently operate one store at the University of Oklahoma (OU) which has been open since December of 1996, and in the process of opening a new store at the University of Tennessee in Knoxville (UT). Needless to say, I have encountered many problems in dealing with the universities at both of these campuses. Listed below are the problems that I have had at OU and UT.

<u>OU</u>

1. In October of 1996 I requested the book information for Spring 1997 from the on-campus bookstore manager Gary Madole. This store is leased to the Follett Corporation through May 2001. Mr. Madole informed me that even though the store is located on university property, the on-campus bookstore is not subject to the Freedom of Information Act and would not give the off-campus stores any book information. This has forced me to contact forty-nine different departments for book information.
2. Next I began contacting all the departments at OU and informed them that I would like a copy of the book information. Most of the departments have been fairly understanding except the Architecture Department. I was informed that the Architecture Department prefers to only give their book information to the on-campus store. Now I had a problem because I was unable to obtain the information from the Architecture Department or the on-campus store. I next mailed a letter to every professor in the Architecture Department as per the advice of Assistant Dean, Joel

1337 W. Lindsey • Norman, OK 73069 • (405) 447-BOOK (2665) • Fax (405) 447-1600 • www.boomerbooks.com

Ditrich. Out of forty letters, I received only one response. This ordeal went on for one year before a solution presented itself. A group of students in the Architecture Department frustrated by the cost and selection of textbooks for the college protested to the Dean. As a result this fall will be the first time any off-campus store will be carrying a full line of Architecture books.

3. I have also requested access to financial aid and scholarship money. Students receive this money every fall and spring. The student takes a voucher to the on-campus (Follett) store and purchases their books and supplies. The Financial Aid Department informed me that the university's policy is to not allow off-campus bookstores to accept these vouchers. In addition, I was informed that the contract between the university and the Follett Corporation gives the on-campus store the exclusive rights to all financial aid and scholarship money. ~~See the enclosed excerpt from the contract.~~

   In September 1998, Mike Koppelman, a student associate of Boomer, informed me that he is forced to purchase his books on-campus because his scholarship uses this voucher program. We determined that the cost of his books would have been $75 cheaper at my store before his associate discount. This means that the endowment that paid his scholarship is being overcharged by $75! This is staggering if you consider every scholarship in the United States.

4. OU has an on-campus debit card called "Sooner Express". This card has existed since the early 1990's and uses the HARCO software system. This system is university operated and allows students to deposit money into an account. This money can be used solely on-campus at the bookstore, copy machines, vending machines, food establishments, etc. I approached David Shirley, the director of the Bursars Office, in January 1997 about accessing this debit card system. I was informed that the university does not send out monthly statements and does not have a maximum loss guideline. If the university allowed off-campus use of the card they would be subject to Federal Regulation E which mandates these requirements.

<u>UT</u>

1. At the University of Tennessee, I requested the book information from the on-campus bookstore director, Wade Meadows in April 1998. Mr. Meadows informed me that I could not receive the book information without a business license. This was a ploy to keep me from obtaining the book information before buyback which started at the beginning of May.
2. UT also has a debit card called the "All Star Card". This card can once again be used at all the on-campus merchants (including the bookstore) but not off campus. Today I spoke with the director of the "All Star Card", Miss Smith, and she informed me that the university may one day take the debit card off campus. She said the university is extremely busy fixing the year 2000 problem and does not have time to work out the details of this problem until January 2000. She also said that the university is concerned about Federal Regulation E and whether universities are exempt. The bottom line is the administration does not want to make national waves and does not want the card to go off campus.

3. Once a freshman has been admitted into UT they sign up for a date to attend freshman orientation. This two-day orientation is designed to allow the students the opportunity to become familiar with the campus, get registered for classes, and meet new friends. During this two-day tour the students are lead into the on-campus bookstore for an hour session on buying books. The students are then told that this is "the bookstore for the students and that they can reserve their books now for the Fall." Since the freshman is not yet aware that there is other off-campus bookstores. they reserve their books then. This is the reason the on-campus store reserved 98% of all incoming freshmen's books and had $16million in sales last year.

Texas Christian University (TCU) is a private university in Ft. Worth, TX, which has an enrollment of 6,000 students. There is one on-campus bookstore that serves the university. To my knowledge, there have been two attempts since 1989 to open a private bookstore. The first attempt was by one of my partners, Wil VanLoh. He requested the book information from the on-campus store and was told that the book information was not public record and he could not obtain a copy. If you would like to discuss this further with Wil, feel free to call him at (713) 225-4700. The second attempt was in 1994 by two students of the university. These students also requested the book information from the on-campus store only to be denied as Wil was years earlier. They then attempted to contact every professor on-campus to gather the information. I understand that they had some success gathering the information until the administration became knowledgeable of the plan. The administration then sent a memo to every professor to strongly discourage any cooperation with those students. This smothered all chances of these students opening a store. I am trying to locate the names and numbers of these students for you.

As I mentioned in our conversation, Oklahoma State University (OSU) has been very unusual. Thomas Thrower, whose family has been in the college textbook industry for the past twenty-five years, opened a private college bookstore, Cowboy Book, in the 1980's. The store did extremely well and even expanded several times. The university union, which housed the on-campus bookstore, had just completed a large remodeling job, which was financed by newly issued bonds. These bonds were to be repaid from the profits of the on-campus bookstore. The administration then became concerned that they would not be able to repay the bonds. Next the university instituted an on-campus card account. This would allow every student to buy his or her books and charge them on their bursar's bill. This destroyed Cowboy Book and eventually lead to Thomas having to declare bankruptcy. I strongly encourage you to speak with Thomas at the number I gave you. Thomas can also give you more information on the 1997 closing of Smith's Books, which was the other off campus bookstore.

You also inquired about the Baylor University vs. The Spirit Shop case. This case concerned book list access. Brent Pennington is the former owner and could be of help. He can be reached at (254) 772-9225.

I am sure that I will hear more stories and encounter more situations as I move forward and will keep you informed of any new information I receive. Keep up the hard work, and if you have any questions, please feel free to contact me at my UT store, (423) 523-1950.

Sincerely,

Charlie Hamilton

Charlie Hamilton
Enclosure

ARIZONA
BOOKSTORE

September 17, 1998

John-Paul deBernardo
CASBA Legal Counsel
(704) 372-3338

Dear Mr. deBernardo:

I am encouraged to hear that there will be a hearing before the Senate Small Business Committee on Thursday, September 24th, regarding the CASBA legislation.

As a small, private bookstore, we are constantly trying to compete with the University of Arizona Bookstore in a business environment that is unfair. In the past, the University would issue checks to students that qualified for educational assistance. Now all of those funds are placed into accounts that are controlled by the University and the students must use that money on campus.

The Bookstore on campus also does not have to charge city or state sales tax on the purchase of textbooks. As a private store, we are required to charge 2% which is a city tax. The Bookstore advertises this to our disadvantage since we are required to charge this tax.

Any help that you can give to us in resolving these issues will certainly be appreciated.

Sincerely,

Gale E. Elliott

Gale E. Elliott
General Manager

AT BACK
520-622-4717 ■ FAX 520-624-6189 ■ 815 N. Park Ave. Tucson, AZ 85719-4895

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CAMPUS BOOKSTORE

"UALR'S OFF CAMPUS ALTERNATIVE"

John Albertson, Manager
Dana Roseby, Asst. Manager

September 17, 1998

John-Paul De Bernardo
De Bernardo Law Firm
One Twelve Tryon Plaza
Suite 1010
Charlotte, NC 28284

Dear John-Paul:

In preparation for the September 24th hearing before the Senate Small Business Committee, I would like to relay a few of the situations we've encountered here at the University of Arkansas at Little Rock.

1. In September 1995, a number of students on financial aid wanted to use their financial aid vouchers at our off-campus bookstore because our used books were 25% less expensive than the new books sold at the on-campus bookstore. The on-campus store in reference is leased to Barnes & Noble through July 2003.

   Rather than disbursing the financial aid award with a check, the U.A.L.R. Student Financial Services Office issues a voucher to the student (encl. #1). During the 1995 Fall Rush, several students assigned their voucher awards to Campus Bookstore, our off-campus bookstore. We submitted these vouchers to the U.A.L.R. Office of Student Financial Services for payment. We were then told that the students could not transfer or reassign their financial aid awards from the Barnes & Noble on-campus store to ours.

   In addition to the refused vouchers, the U.A.L.R. Office of Student Finanicial Services accidently included an in-house memo. In this memo Cari Wickliffe, the U.A.L.R. Student Financial Services Supervisor, instructs Gina Fields, of the U.A.L.R. Cahier's Office, not to pay us for the reassigned vouchers (encl. #2). Cari Wickliffe's boss, Sam Howell, the Division Chief of Enrollment Planning and Student Information, attached a "post-it" note

Serving the
University of Arkansas at Little Rock
3006 S. University Ave.
(501) 562-5455
Little Rock, AR 72204
Fax (501) 562-0086

CAMPUS BOOKSTORE

John Albertson, Manager
Dana Roseby, Asst. Manager

"UALR'S OFF CAMPUS ALTERNATIVE"

CONT.
PAGE TWO

to the same in house memo gleefully reporting to Cari that it "Appears to me several students have received free books!". Because of this unfair practice we are forced to turn away all financial aid assisted students.

2. Every semester since we opened in August 1992, we have been denied access to course-packs, lab manuals, and the course syllabi that are required for course work at our university. The Barnes & Noble store takes the original manuscripts to the copy shop, has their quantities printed and then takes all copies and the original manuscripts back to their store and refuses to make them available to us. These actions restricts the availability of the required course materials and requires all enrolled students in core courses to buy from one source-Barnes & Noble.

These are but two situations in which we are either restricted or totally diabled from serving the students and university community. If you have any questions please feel free to contact me at Campus Bookstore.

Sincerely,

John Albertson
Enclosures

Serving the
University of Arkansas at Little Rock

3006 S. University Ave.
(501) 562-5455

Little Rock, AR 72204
Fax (501) 562-0086

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U·A·L·R

Office of Student Financial Services

TO: UALR Bookstore

FROM: UALR Student Financial Services

DATE: 2/22/94

STUDENT: Bessie Whitten

UALR STUDENT ID: 550-13-4503

The above named student will receive student financial aid and has been authorized to charge books up to the limit listed on this voucher.

THIS VOUCHER MUST BE USED THE SAME DAY THAT IT IS ISSUED. EACH STUDENT IS ALLOWED ONE (1) VOUCHER PER TERM.

VOUCHER LIMIT: $300.00

STUDENT AID OFFICER SIGNATURE:

HOW TO USE THIS VOUCHER

1. PLEASE TAKE YOUR VOUCHER TO THE BOOTH AREA IN FRONT OF THE BOOKSTORE. THE BOOKSTORE WILL SET UP YOUR ACCOUNT WHILE YOU SHOP.

2. BRING YOUR BOOKS, SUPPLIES AND STUDENT I. D. TO THE REGISTER AREA MARKED SPECIAL STUDENT CHARGES INSIDE THE BOOKSTORE. THIS IS WHERE YOUR PURCHASE WILL BE PROCESSED.

REMEMBER:

KEEP YOUR REGISTER RECEIPT. YOUR RECEIPT IS REQUIRED IF YOU NEED TO RETURN A BOOK. ALL BOOK RETURNS WILL BE HANDLED AT THE BOOTH AREA.

mohela

9-20-95 Jerry Ezzi

To Geni
From: Cari
Re. Off Campus Vouchers

The Off-campus Bookstore honored some vouchers for books. We were specifically told this could not happen. So I'm returning them to you.

WORTHEN
NATIONAL BANK
STUDENT LOANS
1-800-766-2265

Cari. Appears to me several students have received free books!

MISS
Comm.

TY
ices

Encl #2

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Georgia Book Store, Inc.

Corner of Edgewood and Courtland
ATLANTA 3, GEORGIA 30303
Phone JAckson 4-3172

Sept. 17, 1998

Challenges in competing with GSU campus store.

Our two primary difficulties, although there are many others, in competing on even ground with the campus bookstore at Georgia State make fair competition an impossibility. The majority of GSU students are receiving some form of financial aid, and because only the campus bookstore is given access to these students, I am unable to offer my goods and services to them. This, in effect, uses my own tax dollars to establish a monopoly against my business. The students , and thereby the taxpayers are not saving any money through this arrangement , and in many cases are forced to purchase new texts at increased cost to us all, while used, less expensive copies sit on my shelf.

I am also, as a non-campus business, restricted from access to the students in many ways. I am a student at the University as well, and when standing in line to pay fees, must pass a table set up by the campus store to take pre-order textbook information from the students. I have requested similar space and been refused. The campus store brings in outside textbook buyers and reserves space for them in the classroom buildings during finals , eating tremendously in the buyback business my store can do and thereby limiting the number of used, less expensive texts I have to offer the students in the following term. I have again been refused similar space for this activity. I am also restricted from access to the student dormitories and must watch the campus store advertise in the dorms for , and carry out a delivery business to the students rooms.

These are but two of the restrictive practices common to campus stores in what should be a competitive environment. I have worked for a major university store in the past, and can assure you that we were reminded regularly of our advantage in this area, and encouraged to make every usage of it.

Drew Sanner
Manager
Georgia Bookstore

New and Used College Text Books

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LAW OFFICES OF
VIMONT & WILLS PLLC
SUITE 300
155 EAST MAIN STREET
LEXINGTON, KY 40507-1317

ARD E. VIMONT
JTHT C. WILLS
BERNARD F. LOVELT
RICHARD M. WEHRLE
FRED E. FUGAZZI, JR.
J. STAN LEE
J. THOMAS RAWLINGS
DAWN S. LOGSDON
LAURA A. D'ANGELO
MARY E. SCHOONOVER

TELEPHONE (606) 252-2202
FAX (606) 259-2927

August 5, 1998

Ms. Christina Hesse
Office of Senator Lauch Faircloth
United States Senate
Washington, D.C. 20510

Dear Ms. Hesse:

First let me thank you for providing us with the Secretary's responses to Senator Faircloth's questions. In many respects, the responses underscored the daunting task that campus area entrepreneurs face when they try to compete against university bureaucracies. I applaud the Senator's efforts in trying to level the playing field.

As you already know, our firm has filed suit on behalf of Kevin Terrell, owner of Study Master, a small, off-campus textbook store, against Morehead State University (MSU) (Copy Enclosed). The University is far and away one of the largest employers in the rural and largely underdeveloped mountain region of Eastern Kentucky. They enjoy a disproportionate share of influence and economic strength within the community. Their reckless disregard for the best intersts of students, in the context of this influence, was one reason that led us to file the case in federal court.

We believe that MSU has violated 34 CFR 161-167 by refusing to honor the assignments of financial aid executed by students for less expensive textbooks purchased at Study Master. In fact, the system as designed by this particular University is punative towards students who do not comply with their rigid financial aid rules. The rules point out, and it is our fundmental argument, that the University is merely a caretaker for the students' financial aid fund and may not prevent a student from using those funds to purchase textbooks at an off-campus location. To do so is an egregious breach of the University's fiduciary duty to the students it is supposed to serve.

Our goal is to end this injustice at Morehead and in the process reduce the costs of higher education to students while at the same time saving taxpayers' money. Please keep us informed of any developments. Thank you for your efforts.

Sincerely,

J. Stan Lee

Enclosure: Verified Complaint (Copy)

cc: John-Paul de Bernardo

F:\Documents\SLee\85483\080598.L30.wpd

MARYLAND BOOK EXCHANGE
4500 College Avenue
College Park, Maryland 20740
301-927-2510

Date: September 17, 1998

To: John-Paul deBernardo

From: Ted Ankeney

Re: CASBA Legislation

There are two major problems facing the Maryland Book Exchange at the University of Maryland at College Park. They are briefly outlined as follows.

First, the University has a debit card system called Terrapin Express. We have been unable to accept Terrapin Express because our telephone exchange if different from that of the University. I estimate that we are locked out of sales approaching $1,000,000 that the University bookstore receives through Terrapin Express.

Our second major problem is less definable in that we do not know how much potential business we are losing because of financial aid being locked into the University system. The University of Maryland College Park has, according to their estimates, approximately 32,000 full time equivalent students. According to their records, 55% of these students receive some form of financial aid which is distributed through either a credit system or checks.

It is my hope, that through some type of legislation, these two problems can be resolved so that we are on a level playing field with the University bookstore. It is only fair that the private sector has the ability of compete equally with the state institution for these monies.

If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

Ted Ankeney

CAMPUS
BOOK & SUPPLY

1078 HURON RIVER DRIVE
YPSILANTI, MI 48197
(313) 485-2369

September 18, 1998

John-Paul deBernardo
CASBA Legal Counsel

Dear Mr. deBernardo,

We believe there are two main areas which represent the University Bookstore's ability to monopolize sales of books and educational materials to students at Eastern Michigan University and at Washtenaw Community College. The first is the matter of student financial aid charges. Students receiving federal and state money from programs administered by the University/College are only allowed to purchase books and supplies from the "official" on-campus bookstore (leased by the University/College). Off-campus stores are not allowed to set up accounts for these students and bill the University/College for their purchases. This completely cuts out the competition from access to these students.

The next is similar to the first, in effect cutting out the competition. At EMU, there is an on-campus debit card in use called the Eagle Express Card. Students set up a debit account with the University, depositing funds at the beginning of a semester which cannot be withdrawn until the end of the term. They then can use their card at University dining facilities (only) and at the on-campus bookstore (only). Local businesses are not able to take this card for purchases, nor can students withdraw cash from their accounts to purchase books off-campus even if the on-campus store is sold out of the book they need. Such a debit card system is being considered at Washtenaw Community College, which currently administers its private student loans and grants in a similar fashion, not allowing students to take their vouchers off-campus for purchases.

We hope this information is useful in your deliberations about this legislation.

Sincerely,

Susan Brown

Susan Brown
Manager

FAST TRACK STUDENTS: SIGN UP NOW!

Fly high

...with an Eagle Express account.

The smart way to access campus.

- SAVE 5% EVERY TIME you dine at university-owned operations.
- Buy books and supplies at McKenny Bookstore before financial aid disbursement.
- No need to carry cash.
- Monthly account statements mailed directly to you.
- No interest payments like charge cards.
- Never go into debt: You cannot overspend your account, and balances are displayed during each purchase.

Put your Eagle Card to work for you.
It's easy to open an Eagle Express Account!

- Come to one of our two convenient locations:
  Eagle Card Office, McKenny Union room 21. Phone 487-3176.
  Housing & Dining Services Office, lower level Dining Commons One. Call 487-3078.
- Bring your Eagle ID Card, plus another picture ID.
- A minimum of $25 opens your account. You can use cash, check money order, Visa or Mastercard, or charge to your student account.

Divisional Technology Services
Division of University Marketing & Student Affairs

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"SINCE 1961"

SOUTH CAROLINA BOOKSTORE
CORNER OF GREENE & MAIN • P.O. BOX 24 • COLUMBIA, SC 29202
FAX (803) 799-5521 • (803) 799-7406

Sept. 18, 1998

To Whom It May Concern:

Even though we have been in business at the University of South Carolina since 1961 as the off-campus bookstore, the competition has always been weighted in the favor of the on-campus bookstore. The two worst problems we face in our day-to-day competition with the on-campus bookstore are:

1) The inability to participate in the sales to students on financial aid or scholarship.

2) Timely access to mailing list of students, especially incoming freshman.

These are only (2) of several problems we face in our competition with the on-campus bookstore. I hope they will be beneficial in the fight against unfair competition.

Sincerely,
Bruce C. [signature]
Manager, SCB

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Colloquium Bookstores

Colloquium Books
320 University Drive
San Marcos, Texas 78666
(512)392-6641
Fax (512)392-1074

Colloquium Too!
700 North LBJ
San Marcos, Texas 78666
(512)396-1313

Thursday, September 17, 1998

Attn: John-Paul deBernardo
CASBA Legal Counsel

The University Bookstore at Southwest Texas State University in San Marcos, TX uses it influence to make our intracampus interaction as difficult as possible. They do not feel that we should have a presence on campus. We are not allowed to be an active part in any Orientation programs or information packages. The Undergraduate Catalog, which was free until this year, is now being sold exclusively at the University Bookstore. Course materials that are compiled by professors and required in their classes, are being printed and sold exclusively at the University Bookstore. Two years ago we were told by the Bookstore Manger that he would no longer sell any of these Course Materials to off campus bookstores, nor he would allow us to buy them off their shelves. All books and supplies bought with funds from athletic and scholarship programs, veteran benefits, departmental acquisitions, and most financial aid is handled exclusively by the University Bookstore. A University Debit Card was being used at the Bookstore, but was dropped when they were recently required by state law to make it available to off campus businesses as well. They complain or put pressure on organizations and departments within the University, when we are allowed to do advertising on campus as a result of financial support or a sponsorship. Basically, they do not want competition or us to be on campus; forgetting that they are part of a *public* institution which is supported by our taxes, generated from an economy that is based on free enterprise.
The Bookstore exists as a provider of services for students, but they were not designated the sole source. They should not be involved in tactics of exclusivity that discriminate against local businesses and limit the freedom of choice for the students of this campus.

Sincerely,

Kay Moore
General Manager
Colloquium Books

L & M BOOKSTORE
1716 North Main Ave.
San Antonio, TX 78212
Phone (210) 222-1323
Fax (210) 222-1580

18, September 1998

To: ***John-Paul deBernardo***
CASBA Legal Counsel
Fax (704) 372-3338

From: ***Joseph P. Puig III***
General Manager
L & M Bookstore, NBC #61

Our problems regarding the on-campus bookstore are primarily ones of access and choice. Many forms of financial aid given to the students limit their choices of where they can purchase their books and supplies. The college allows the on-campus bookstore to charge against various forms of financial aid, including Pell Grants, scholarships, grants and loans. Because the on-campus bookstore is given this privilege and we are not, the choices available to a large percentage of the student body are automatically limited and, consequently, these students are unable to take advantage of the competitive environment created by private off-campus bookstores such as ours.

In my estimation, our college does an excellent job of releasing Pell Grant checks to the student body on a very timely basis; usually the first round of checks are released a few days prior to the start of the semester. But even taking this into account, the options available to the students are curtailed by making them wait for this date and not allowing them a choice if they choose to purchase their books earlier. Should a student choose to purchase their books and supplies early, they have no choice but to purchase them from the on-campus bookstore where they can charge them against their Pell Grant prior to the actual check being written. For students with other forms of financial aid, their choices are often limited to the on-campus bookstore exclusively because the funds are never made available directly to the student and their only choice is to charge their books and supplies on-campus.

Competition is a cornerstone to our free-market economy and I believe there are many obvious advantages available to consumers in this system. In the academic setting the students are the consumers and I believe that financial aid in any form should allow the beneficiaries of this aid to take full advantage of our competitive system rather than limit their ability to make this system work for them. The system should provide whatever financial aid, educational loans or scholarships that may be appropriate but once these decisions are made allow the recipient the choice of where these funds are spent. Any system that provides anything short of this is in need of correction.

Thank you for the opportunity to provide you with this information.

VARSITY Book Store — James E. Raney, Owner
315 East College • P. O. Box 633090 • Nacogdoches, Texas 75963-3090 • (409) 564-2704

September 1, 1998

One of hundreds of Samples

Mr. Ken Baglino, Managing Editor
College Store Executive
825 Old Country Road
P. O. Box 1500
Westbury, NY 11590

Re: CSE September - Campus Cards Conform to Perform

Dear Mr. Baglino:

I quote from your article, which quotes Bruce Lane, vice president of The CBORD Group. "People have seen that they can latch onto that money, it gives them a competitive advantage over *that* bookstore around the corner"

I have *that* bookstore around the corner and have questions about several points. Is it ethical to hold a student's funds and due to the use of the card force that student to purchase from only one source? What if *that* bookstore around the corner has a used book selling for $45.00 while the campus (card operating) bookstore has a new book selling for $60.00, is this in the best interest of the student?

The portion of the statement "...they can latch onto that money..." really speaks volumes. State owned colleges and universities are not interested in the welfare of the student, they are only trying to milk the "cash cow."

In Texas, institutional stores offering debit cards must, by law, allow any establishment which offers similar or like merchandise for sale to participate in the debit card system. This allows students to spend their funds as they deem best.

Those of us who have been in this business for any length of time are well aware of what these institutions are trying to accomplish. I for one, have been around for forty years and know a good many of the tricks. We as *that* bookstore operators knew when we went into business that none of the advantage was with us. The institution in addition to having the best location, pays no federal income tax, no state income tax, no ad valorem property tax, no worker compensation, no unemployment tax, and no insurance. They enjoy the full faith and credit of the state. By law they cannot

Extended Page

the full faith and credit of the state. By law they cannot
contribute to any campus organization's "fund" drive such as MDA, United Way, fraternity/sorority fund raisers, etc. Most off-campus

VARSITY Book Store James E. Raney, Owner
315 East College • P. O. Box 633090 • Nacogdoches, Texas 75963-3090 • (409) 564-2704

operators feel obligated to support the student organizations that support them and thus make the contributions to various and many causes.

Many university presidents use the profits from the bookstore as a "slush" fund to spend in almost any manner he or she so desires. Often times it funds trips that are not in the budget. Sometimes it pays stipends for some visitor to the campus. Regardless of the expenditure, the funds that are derived from the so-called auxiliary enterprise are not funds that university officials have to go grovel for before the legislature.

For one, I am damn tired of these money grabbers. And with the electronic era, it appears that another level of the battle is occurring.

The university people do not understand the real meaning of competition, at least the meaning of fair competition. Fair competition means that factors such as better merchandise, better prices, better services, better advertising and other factors available to all in the market place determine where the customer shops. The universities do not use any of these in their competition. They primarily use the methods which trap the student on the campus; debit cards, university credit, withholding student loan funds until after the semester is well underway before the funds are dispensed and the services of the CBORD Group.

NACS should be aware that the institutional store may become a thing of the past as lease operations become the way of the future, and that the privately owned stores represent a substantial number in the membership. It has only been recently that NACS has recognized the privately owned stores. (Remember that I have been in the business for forty years).

Finally, if any private store is concerned about its future it should contact the John-Paul de Bernado Law Firm at 112 Tryon Plaza, Suite 1010, in Charlotte, North Carolina 28284 to participate in helping pass federal legislation that would provide a more level playing field. The legislation would accomplish this by requiring institutions receiving federal funds, federally guaranteed student loan or grants to allow the recipient of the funds to be given the opportunity to spend his loan or grant on education as he chooses.

Extended Page

Sincerely,

James E. Raney

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DOMINION BOOKSTORE

Div. of Nebraska Book Co.
1074 West 47 Street
Norfolk, VA 23508
(804) 423-2665
FAX (804) 423-5049

DATE: September 17th, 1998

TO: John-Paul deBernardo

FROM: Andrew A. Cowherd

RE: CASBA legislation

Two of the worst problems I face in dealing with the on-campus bookstore (leased by Barnes and Noble Book Co.) are receiving textbook information and getting a list of incoming freshmen.

When the different departments on campus turn in their textbook information on a requisition form, I do receive a copy from the on-campus bookstore. However, if the department or professor calls or faxes the on-campus store, I receive no information on the course.

Incoming freshmen that attend ODU Preview (the freshman summer orientation) are given a tour of campus by upperclassmen chaperones hired by the university. The chaperones take the incoming freshmen to the on-campus bookstore and inform them that this is the place to buy their textbooks. They are also told to drop off their schedules so the on-campus bookstore can box up their books and have them ready when they come back in the fall. There is no mention of an off-campus alternative.

I cannot get a list of the incoming freshmen from the university. Major corporations, however, who are not in direct competition with the university (such as banks and credit card companies) have no problem attaining the information. If we had access to the incoming freshmen we could offer a reservation service as well, with a substantial savings to the student.

Sincerely,
Andrew A. Cowherd

Andrew A Cowherd

Manager

TECH BOOKSTORE
118 South Main St.
Blacksburg, VA 24060
(540) 552-6444

September 17, 1998

John-Paul deBernardo
CASBA Legal Counsel

Dear Mr. deBernardo,

At Virginia Tech, a state University of 25,000 students, we, as a private, off-campus bookstore are not allowed to sell any books, school suplies, or computer equipment to any students receiving financial aid or scholarship money. This pertains to any student on either academic or athletic scholarship or assistance.

I can understand the University wanting to control the Athletic Department dollars, but many of the various Academic Scholarships are from private funds, state monies, endowment grants, etc., and I do not think that the private sector should be excluded from servicing this group of students just because the University wants their money to go thru their bookstore. We are competive in our pricing, and an individual or organization should be able to "shop" for the best value on all their educational needs.

sincerely,

Jerry

Jerry Diffell
Manager

APPENDIX II

A. Letter dated May 16, 1998 from Senator Lauch Faircloth to U.S. Secretary of Education Richard Riley.

B. Letter dated June 22, 1998 from U.S. Department of Education representative Jeff Baker in reply to Senator's Faircloth's letter of May 16, 1998.

C. Letter dated July 8, 1998 from U.S. Department of Education representative Jeff Baker in reply to an e-mail message of April 18, 1998 to President Clinton from Mr. Daniel Lieberman, a Pennsylvania off-campus bookstore owner and CASBA member.

LAUCH FAIRCLOTH
NORTH CAROLINA

United States Senate
WASHINGTON, DC 20510-3305

May 16, 1998

Honorable Richard W. Riley
Secretary
Department of Education
600 Independence Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Riley:

I am writing to inquire about the Department's policies regarding the use of federal aid at on-campus college bookstores and college or university-issued debit, credit and smart cards. You may recall that I raised this question to you when you appeared before the Labor, HHS, Education Subcommittee on March 5.

I am interested in further information about your agency's guidelines and would appreciate your answering the following questions:

1. What is the Department of Education's policy regarding the use of student purchase vouchers and/or electronic crediting at off-campus college bookstores and other campus area businesses?

2. What is the Department of Education's policy regarding the release of college professor's textbook requirements to off-campus college bookstores?

3. Who does the Department of Education consider the primary beneficiary of its federal student financial aid - the students or institutions?

4. What is the Department's policy regarding student use of so-called "campus cards" - debit, credit, or "smart" cards? Are "campus cards" open to all on-campus and off-campus businesses?

5. What are the Department's plans for further fostering competition and increasing student choice?

I would appreciate responses to these issues by Friday, June 13. Thank you for your attention to this matter. If you have any questions please do not hesitate to contact Christine Hesse in my office at 224-3154.

Sincerely,

Lauch Faircloth

PRINTED ON RECYCLED PAPER

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

JUN 22 1998

Honorable Lauch Faircloth
United States Senator
Washington, DC 20510-3305

Dear Senator Faircloth:

Thank you for your May 16, 1998 letter to Secretary Riley regarding the use of federal aid at on-campus bookstores and college and university issued debit, credit, and smart cards. Your letter has been referred to my office, and I am pleased to respond.

In your letter, you asked specific questions about the U.S. Department of Education's (Department) policies regarding student choice and common business practices employed by institutions participating in programs authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA). For ease of reference, I will restate the questions you posed in your letter along with the Department's response to each of those questions.

1. What is the Department of Education's policy regarding the use of student purchase vouchers and or electronic crediting at off-campus college bookstores and other campus area businesses?

Response: The Department does not restrict or prohibit generally accepted business practices, such as granting consumer credit (e.g., student purchase vouchers or "campus cards") or the establishment of mutually agreed upon business relationships formed between institutions and off-campus bookstores and other area businesses. The law and current regulations allow an institution to use Title IV, HEA program funds to satisfy charges for tuition and fees, and room and board. After the institution credits the student's account with Title IV, HEA program funds for those charges, any funds remaining are given to the student. Therefore, the student may always exercise his or her right to purchase books and supplies from other sources. However, if the student chooses, he or she may allow the institution to apply those remaining funds to other charges the student has incurred, including charges at on-campus bookstores.

2. What is the Department of Education's policy regarding the release of college professor's textbook requirements to off-campus college bookstores?

Response: In accordance with Section 103(b) of the Department of Education's Organization Act (Pub. L. 98-88), the Department does not have the authority to regulate or otherwise exercise control over the direction, curriculum, or program of instruction at postsecondary institutions. Therefore, the Department does not regulate or control whether schools release information about students' textbook requirements to off-campus bookstores.

600 INDEPENDENCE AVE., S.W. WASHINGTON, D.C. 20202

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Page 2-- Honorable Lauch Faircloth

3. Who does the Department of Education consider the primary beneficiary of its federal student financial aid--the students or institutions?

Response: In accordance with Section 400 of Title IV, HEA, which states that the purpose of the Title IV programs is "... to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484) in institutions of higher education....," the Department considers students to be the primary beneficiary of the Title IV, HEA programs. However, the Department also considers participating postsecondary institutions to be its customers due to their role as fiduciary agents. The Department works with participating institutions to ensure that all eligible students receive the benefits and rights associated with their receipt of Title IV funds.

4. What is the Department's policy regarding the use of so-called "campus cards" --debit, credit, or smart cards? Are "campus cards" open to all on-campus and off-campus businesses?

Response: The Department does not prohibit the use of debit, credit, or smart cards, as long as Title IV funds are only used to pay for tuition, fees, room and board, and other charges authorized by the student, and the student has given his or her permission to the school to hold Title IV funds on his or her behalf. If a participating institution wishes to establish a business relationship with an off-campus business to provide students with books and supplies, it may do so. Similarly, off-campus businesses may establish business relationships with schools and students if they so choose.

5. What are the Department's plans for further fostering competition and increasing student choice?

Response: The Department is committed to a full and fair implementation of the statutory and regulatory requirements relating to schools' management of federal student financial aid funds. The Department believes that the recently implemented cash management regulations balance the need for consumer protection with the need for flexibility in managing Title IV funds.

I hope this information is useful to you in better understanding the Department's position in this matter.

Sincerely,

Jeff Baker, Director
Policy Development Division
Student Financial Assistance Programs

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Mr. Daniel Lieberman
4504 Adams Court
Chester Springs, Pennsylvania 19425

JUL - 8 1998

Dear Mr. Lieberman:

Thank you for the April 18, 1998 electronic mail message to President Clinton, which requested to meet with him to discuss waste and abuse of taxpayers' funds in the federal student financial aid programs. Unfortunately, the President is unable to meet with you personally, but the White House has referred your concerns to the U.S. Department of Education's (Department) Student Financial Assistance Programs. I am pleased to respond on behalf of the Department.

In your message to the President, you allege that students are forced to purchase their books and other supplies at bookstores owned by institutions participating in programs authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA). Federal law and regulations allow an institution to use Title IV, HEA program funds to satisfy charges for tuition and fees, and room and board. However, after the institution credits the student's account with Title IV, HEA program funds for those charges, any funds remaining are given to the student. Therefore, a student is always free to purchase his or her books and supplies from other sources, if he or she chooses to do so. Furthermore, the Department does not restrict or prohibit the establishment of mutually agreed upon business relationships formed between institutions and off-campus bookstores. Therefore, if a participating institution wishes to establish a business relationship with an off-campus bookstore to provide students with books and supplies it may do so. Similarly, off-campus bookstores may establish business relationships with schools and students if they so choose.

While you do not specifically state how students are "forced" to buy required course materials from the on-campus bookstores, I would like to clarify that institutions are specifically prohibited from using a student's Title IV, HEA program funds to pay for books, equipment, and supplies without the student's express written permission to do so. The regulations also specifically prohibit an institution from requiring or coercing a student to provide written authorization to hold a student's funds or to apply those funds to other charges.

Please rest assured the Department is committed to a full and fair implementation of the statutory and regulatory requirements relating to schools' management of federal student financial aid funds. I hope the explanation I have provided of the federal laws and regulations governing a participating institution's use of Title IV funds eases your concern that the Department is not adequately protecting a student's rights and responsibilities.

600 INDEPENDENCE AVE., S.W. WASHINGTON, D.C. 20202

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Page 2--Mr. Daniel Lieberman

If you have specific documentation that an institution is violating federal laws and regulations, please contact the Office of the Inspector General's Hotline at 1-800-MIS-USED.

Sincerely,

Jeff Baker, Director
Policy Development Division
Student Financial Assistance Programs

APPENDIX III

Sample student responses to surveys concerning on-campus monopolies

- Pennsylvania

- Southwest Missouri State University

Student/Parent Voices of Pennsylvania

Feedback on the cost of textbooks from Pennsylvania college students and their families.

Pennsylvania Students and their families continually battle the ever-increasing costs of a college education. A frustrating area of concern that needs to be addressed is the high cost of textbooks. Many campuses enjoy monopolies and exclusively sell textbooks and other supplies to students and their families. When such a monopoly exists, businesses can charge exorbitant prices for their goods because consumers have no other purchasing options. Essentially, "there's only one game in town".

The existence of off-campus bookstores is fundamental to the preservation of the students' right of choice, the prevention of monopolistic marketplaces, and the creation of a competitive environment that benefits consumers with lower prices and better services.

Yet many of these off-campus competitors do not enjoy the benefit of competing in an equitable, fair, and open marketplace. There are many disadvantages that off-campus stores endure in order to offer their services to students. It is in the best interest of all students, families, tax payers, and even the universities to make sure that off-campus competitors be protected from unfair competition.

"I understand these principles and would like to give you my opinions and feedback on how you can help preserve my ability to choose."

I agree

☑ Each university in Pennsylvania that receives state funding should be required to make all professors' classroom textbook/supply requirements accessible to the public so that any bookstore can access this information and be able to sell those titles/supplies.

I agree

☑ The current system of allocating student's financial aid, scholarship, or grant monies for school supplies does not allow a student to spend their state or federal allocated money where they would like to. Student's are forced to buy their books on campus and do not have a choice. All universities in Pennsylvania should be prohibited from taking away students' right to choose where to spend the money allocated to them. Competing stores should not be cut out of the process so that students are forced to pay higher prices, especially when they are spending the government's money.

Signature: Rachel Byers Date: 1/16/98

Print Name: Rachel Byers School Phone #: 397-5099

Student or parent comments on textbooks, financial aid, or unfair competition:

Weren't monopolies illegal in the U.S.? They don't have the right to keep book orders from Dynamic.

BEST COPY AVAILABLE

Student/Parent Voices of Pennsylvania

Feedback on the cost of textbooks from Pennsylvania college students and their families.

Pennsylvania Students and their families continually battle the ever-increasing costs of a college education. A frustrating area of concern that needs to be addressed is the high cost of textbooks. Many campuses enjoy monopolies and exclusively sell textbooks and other supplies to students and their families. When such a monopoly exists, businesses can charge exorbitant prices for their goods because consumers have no other purchasing options. Essentially, "there's only one game in town".

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"I understand these principles and would like to give you my opinions and feedback on how you can help preserve my ability to choose."

I agree

☑ **Each university in Pennsylvania that receives state funding should be required to make all professors' classroom textbook/supply requirements accessible to the public so that any bookstore can access this information and be able to sell those titles/supplies.**

I agree

☑ **The current system of allocating student's financial aid, scholarship, or grant monies for school supplies does not allow a student to spend their state or federal allocated money where they would like to. Student's are forced to buy their books on campus and do not have a choice. All universities in Pennsylvania should be prohibited from taking away students' right to choose where to spend the money allocated to them. Competing stores should not be cut out of the process so that students are forced to pay higher prices, especially when they are spending the government's money.**

Signature: Christopher Tighe   Date: 12/18/97

Print Name: Christopher Tighe   School Phone #: (717) 872-9645

Student or parent comments on textbooks, financial aid, or unfair competition:

Book prices at student bookstore are ~~[illegible]~~ extremely high. and buyback policies are insufficient for the amount of money we pay for them originally.

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Student/Parent Voices of Pennsylvania

Feedback on the cost of textbooks from Pennsylvania college students and their families.

Pennsylvania Students and their families continually battle the ever-increasing costs of a college education. A frustrating area of concern that needs to be addressed is the high cost of textbooks. Many campuses enjoy monopolies and exclusively sell textbooks and other supplies to students and their families. When such a monopoly exists, businesses can charge exorbitant prices for their goods because consumers have no other purchasing options. Essentially, "there's only one game in town".

The existence of off-campus bookstores is fundamental to the preservation of the students' right of choice, the prevention of monopolistic marketplaces, and the creation of a competitive environment that benefits consumers with lower prices and better services.

Yet many of these off-campus competitors do not enjoy the benefit of competing in an equitable, fair, and open marketplace. There are many disadvantages that off-campus stores endure in order to offer their services to students. It is in the best interest of all students, families, tax payers, and even the universities to make sure that off-campus competitors be protected from unfair competition.

"I understand these principles and would like to give you my opinions and feedback on how you can help preserve my ability to choose."

I agree

☑ Each university in Pennsylvania that receives state funding should be required to make all professors' classroom textbook/supply requirements accessible to the public so that any bookstore can access this information and be able to sell those titles/supplies.

I agree

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Signature: Michelle RC Santacroce Date: December 18, 1997

Print Name: Michelle RC Santacroce School Phone #: 871-9173

Student or parent comments on textbooks, financial aid, or unfair competition:

I believe that competition is healthy - among any type of retail stores. The fact that University Stores hold a monopoly on books is WRONG. Competition lowers prices & as a college student I don't have an extra $100 to spend on books. By professors not sharing their textbook information w/ other stores, they are forcing me to spend my money where they want me to. NO ONE HAS THE RIGHT TO TELL ME WHERE TO SPEND MY OWN HARD EARNED MONEY!!! NO ONE! Not even my parents. I work for a living & I pay taxes like everyone else. I'll spend my money where I want to - not where "The University" tells me to!!

III-3

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Student/Parent Voices of Pennsylvania

Feedback on the cost of textbooks from Pennsylvania college students and their families.

Pennsylvania Students and their families continually battle the ever-increasing costs of a college education. A frustrating area of concern that needs to be addressed is the high cost of textbooks. Many campuses enjoy monopolies and exclusively sell textbooks and other supplies to students and their families. When such a monopoly exists, businesses can charge exorbitant prices for their goods because consumers have no other purchasing options. Essentially, "there's only one game in town".

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Signature: Stephanie Binter Date: 12-18-97

Print Name: Stephanie Binter School Phone #: 872-4208

Student or parent comments on textbooks, financial aid, or unfair competition:

I feel that a monopoly is unfair. I personally can not afford to spend more money on supplies than necessary. If I can get what I need cheaper, I will. Students need to have a choice in where their hard earned dollars are spent.

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4000 SIGNATURES +++

PETITION

Southwest Missouri State University has developed a deferred payment plan (credit plan) for the purchase of textbooks. I believe competing off-campus stores should be included in this process. The university is a state institution, funded in part by taxpayers, and should not force students to purchase their books on campus to take advantage of the credit program. As a student, I should be able to exercise my options when purchasing books, thus preserving competition and fair prices.

	Name (Please Sign Legibly)	Hometown	Zip Code
1.	[illegible]	Oak Grove	64075
2.	Sarah Boyd	St Louis	65804
3.	[illegible]	[illegible]	65615
4.	Christine [illegible]	St Louis	65807
5.	Jamie Smith	K C	64151
6.	Jeff Overfield	Omaha	68127
7.	[illegible]	Blue Springs	64015
8.	[illegible] Andrea [illegible]	Springfield	65807
9.	Hannah Ullmann	Greenville	65666
10.	Michelle McNamara	K C	64138
11.	[illegible]	Springfield	65804
12.	Carrie Tait	Pittsburg	65724
13.	Todd [illegible]	K C	64056
14.	Allison Lynn	Cole Camp Mo.	65325
15.	Shawn Stanley	Eldorado, IL	62930
16.	[illegible] Stewart	Spfd	65804
17.	Carolyn Plumlee	Bentonville, AR	72712
18.	Cara Carr	Butler, Mo	64730
19.	[illegible] Sutton	Butler, MO	64730
20.	[illegible]	St Joseph Mo	64507
21.	[illegible]	Gainesville Mo	65655
22.	Kristi Wakefield	Mtn. Grove, MO	65711
23.	Leah [illegible]	Sfd, MO	65804
24.	Mary [illegible]	Walnut Shade, Mo	65771
25.	[illegible]	Spfd	65802

APPENDIX
IV

The National Commission
on the Cost of Higher Education
1998 Report:
"Straight Talk About College Costs & Prices"
Compiled by the Campus Area Small Business Alliance

(copy of Advance Copy)

CASBA

CAMPUS AREA SMALL BUSINESS ALLIANCE

One Twelve Tryon Plaza
Suite 1010
Charlotte, N. C. 28284
Telephone: (704) 372-3333
FAX: (704) 372-3338

To whom it may concern,

The attached copy of the Advance Copy of the report, "Straight Talk About College Costs And Prices", was reproduced by The Campus Area Small Business Alliance, "CASBA". This report supplements the testimony of William Gray, National Chairman of CASBA, before the United States Senate Small Business Committee on September 24, 1998.

His testimony is to be given in support of S.2490, *The College Costs Savings Act of 1998* introduced by the Honorable Lauch Faircloth.

Submitted by:

John-Paul de Bernardo, Counsel
The Campus Area Small Business Alliance
September 21, 1998

STRAIGHT TALK ABOUT COLLEGE COSTS AND PRICES

Report of

The National Commission on the Cost of Higher Education

January 1998

Advance Copy

Public Law 105-18 creating the National Commission on the Cost of Higher Education requires "any recommendation . . . made by the Commission to the President and the Congress [be] adopted by a majority of the Commission who are present and voting members." The Commission will meet on January 21st, 1998, to vote on this report and the recommendations contained in it. Until this vote has occurred, this document remains a staff draft prepared for the Commission's consideration.

Members of the National Commission on the Cost of Higher Education

William E. Troutt, Chairman	President, Belmont University, Nashville, Tennessee
Barry Munitz, Vice Chairman	President and CEO. The J. Paul Getty Trust, Los Angeles, California
Martin Anderson	Senior Fellow, Hoover Institution of Stanford University, Stanford, California
Jonathan A. Brown	President, Association of Independent California Colleges and Universities, Sacramento, California
Robert V. Burns	Distinguished Professor and Head of Political Science, South Dakota State University, Brookings, South Dakota
Clare M. Cotton	President, Association of Independent Colleges and Universities in Massachusetts, Boston, Massachusetts
William D. Hansen	Executive Director, Education Finance Council. Washington, D.C.
Walter E. Massey	President, Morehouse College, Atlanta. Georgia
Frances M. Norris	Vice President for Congressional Affairs, U.S. West, Inc., Washington. D.C.
Blanche M. Touhill	Chancellor, University of Missouri at St. Louis. St. Louis, Missouri
George W. Waldner	President. York College of Pennsylvania. York, Pennsylvania

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Carmelita R. Pratt	Administrative Officer
Henrietta B. Moody	Executive Assistant

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LETTER OF TRANSMITTAL

January 1998

The Honorable William Jefferson Clinton
President of the United States

The Honorable Albert Gore
President
United States Senate

The Honorable Newt Gingrich
Speaker
United States House of Representatives

Gentlemen:

Public Law 105-18 (Title IV, Cost of Higher Education Review, 1997) established the National Commission on the Cost of Higher Education as an independent advisory body and called for a comprehensive review of college costs and prices.

The legislation created an 11-member Commission — three each to be appointed by the Speaker of the House of Representatives and the Majority Leader of the U.S. Senate; two each to be appointed by the Minority Leader of the House and the Minority Leader of the Senate; and one to be appointed by the Secretary of Education.

Noting that public concern about college affordability was at a 30-year high and that tuition increases at four-year public institutions had outpaced growth in median household income and the cost of consumer goods since 1980, the statute directed the Commission to submit a report to the President and Congress by February 1998. We are pleased to submit this final report.

Our Congressional charter asked that we examine eleven specific factors related to costs. These included:

1. The increase in tuition compared with other commodities and services.
2. Innovative methods of reducing or stabilizing tuition.
3. Trends in college and university administrative costs, including administrative staffing, ratio of administrative staff to instructors, ratio of administrative staff to students, remuneration of administrative staff, and remuneration of college and university presidents and chancellors.
4. Trends in faculty workload and remuneration (including the use of adjunct faculty); faculty-to-student ratios; number of hours spent in the classroom by faculty; and tenure practices, and the impact of such trends on tuition.
5. Trends in the construction and renovation of academic and other collegiate facilities, the modernization of facilities to access and utilize new technologies, and the impact of such trends on tuition.
6. The extent to which increases in institutional financial aid and tuition discounting have effected tuition increases, including the demographics of students receiving such aid, the extent to which such aid is provided to students with limited need in order to attract such students to particular institutions or major fields of study, and the extent to which Federal financial aid, including loan aid, has been used to offset such increases.
7. The extent to which Federal, state and local laws, regulations or other mandates contribute to increasing tuition, and recommendations on reducing those mandates.
8. The establishment of a mechanism for a more timely and widespread distribution of data on tuition trends and other costs of operating colleges and universities.
9. The extent to which student financial aid programs have contributed to changes in tuition.
10. Trends in state fiscal policies that have affected college costs.
11. The adequacy of existing Federal and state financial aid programs in meeting the costs of attending colleges and universities.

Despite our brief tenure, we had little difficulty reaching broad agreement on major themes and directions. We believe that it is time for straight talk about college expenses and that the distinction between cost and price must be recognized and respected. By "cost" we mean the expense an institution of higher education bears to deliver education to a student; by "price" we mean the portion of those costs students and families are asked to pay. Against that backdrop, the conclusions in this document speak for themselves:

- The United States has a world-class system of higher education, and a college degree has become a key requirement for economic success in today's world.
- This Commission is convinced that American higher education remains an extraordinary value.
- Institutions, families and students, and other patrons share responsibility for maintaining quality and reducing costs.
- Tuition price controls will not work and would be destructive of academic quality in higher education.
- Nevertheless, the Commission is also deeply concerned that most academic institutions have permitted a veil of obscurity to settle over their financial operations and many have yet to take seriously basic strategies for reducing their costs.

- Unless academic institutions attend to these problems now, policymakers at both the state and Federal levels could impose unilateral solutions that are likely to be heavy-handed and regulatory.

To deal with these concerns, this report presents a five-part action agenda. The Commission's recommendations, several dozen in all, emphasize shared responsibility to (1) strengthen institutional cost control; (2) improve market information and public accountability; (3) deregulate higher education; (4) rethink accreditation; and (5) enhance and simplify Federal student aid.

We have been straightforward in our discussions with each other and in our recommendations about what needs to be done. We are unanimous in supporting the broad themes and recommendations in this document.

We want to thank each of you for your confidence that we could complete this challenging assignment. Your support helped us complete the task on schedule.

Finally, we want to acknowledge the work of our staff, under the able leadership of its executive director, Bruno Manno, which unfailingly served us well.

William E. Troutt, Chairman	**Barry Munitz, Vice Chairman**
Martin Anderson	**Walter E. Massey**
Jonathan A. Brown	**Frances M. Norris**
Robert V. Burns	**Blanche M. Touhill**
Clare M. Cotton	**George W. Waldner**
William D. Hansen	

STRAIGHT TALK ABOUT COLLEGE COSTS AND PRICES

The phenomenon of rising college tuition evokes a public reaction that is sometimes compared to the "sticker shock" of buying a new car. Although this reference to automobile prices may irritate some within the higher education community, it serves to remind all of us that higher education is a product, a service bought and paid for. like others.

Rising college tuitions are real. In the 20 years between 1976 and 1996, the average tuition at public universities increased from $642 to $3,151 and the average tuition at private universities increased from $2,881 to $15,581. Tuitions at public two-year colleges, the least expensive of all types of institutions, increased from an average of $245 to $1,245 during this period.[1]

Public anxiety about college prices has risen along with increases in tuition. It is now on the order of anxiety about how to pay for health care or housing, or cover the expenses of taking care of an elderly relative.[2] Financing a college education is a serious and troublesome matter to the American people.

Each member of this Commission understands this anxiety. We treat it seriously. We do not take lightly the public concern generated by increases in tuition. Worry about college prices, the difficulty of planning for them, and the amount of debt they entail dominated a discussion group of parents convened by the Commission in Nashville in November 1997. Members of the Commission are equally convinced that if this public concern continues, and if colleges and universities do not take steps to reduce their costs, policymakers at the Federal and state levels will intervene and take up the task for them.

What concerns this Commission is the possibility that continued inattention to issues of cost and price threatens to create a gulf of ill will between institutions of higher education and the public they serve. We believe that such a development would be dangerous for higher education and the larger society.

In the end, academic institutions must be affordable and more accountable. The Commission is worried that many academic institutions have not seriously confronted the basic issues involved with reducing their costs — and that most of them have also permitted a veil of obscurity to settle over their basic financial operations.

This report addresses these issues. It provides straight talk about college costs and about college prices. While this Commission's ultimate goal is ensuring the affordability of higher education, achieving that goal requires an understanding of what it costs colleges and universities to educate students, the prices academic institutions charge students to attend, and the relationship between the two. Moreover, the role of financial aid is considered since many students do not pay the full price they are charged for their education. This report, therefore, is divided into three main sections: the first provides a review of significant facts about higher education and the current situation with regard to higher education costs and prices. The second outlines our review and assessment of the major reasons advanced for increases in college costs and prices. The third presents our convictions about the college cost and price crisis and our recommendations to keep higher education affordable.

Facts about Higher Education, Its Cost, and Its Price

The diversity of American higher education is unequaled in the world and is, without question, one of this nation's great strengths. Approximately 3,700 not-for-profit colleges and universities which vary in terms of size, geography, sector, selectivity, and mission comprise the academic spectrum: flagship state universities expanding the boundaries of human knowledge; four-year public institutions providing access at very low prices; private universities, many of them among the most prestigious in the world; liberal arts colleges proud of their tradition of encouraging intellectual development in small, intimate settings; and two-year community colleges offering everything from high school and transfer programs to retirement planning and technical training.

Although there are more private colleges and universities than public ones, more than three quarters (78 percent) of all students — and 81 percent of all undergraduates — are enrolled in public two- and four-year institutions. In recent years, the number of part-time students has increased substantially. Indeed, the student profile has changed radically in recent decades profoundly affecting the way colleges look at and do their jobs. In addition to the traditional 18- to-22 year-old full-time students, higher education enrollments now include large numbers of older, married individuals, many of them parents, with limited means, demanding personal schedules, and a tendency to move in and out of the student population on a part-time basis. Current students are the most racially and ethnically diverse group ever served by any nation's system of higher education. A high percentage of these students, including many undergraduates, are financially independent of their parents. In fact, the percentage of undergraduates enrolled part-time increased from 28 percent of all enrollments (two- and four-year) in 1980 to 42 percent in 1994, with the greatest concentration of part-time students in two-year institutions. (See Table 1.)

Table 1: Number of Institutions and Enrollment by Status and Age, by Type of Institution

	Public		Private		Total
	Four-year	Two-year	Four-year	Two-year	
Number of Institutions[1]	608	1,047	1,636	415	3,706
Total Enrollments (thousands)[2]	5,825	5,308	2,824	221	14,279
Full-time (thousands)	4,065	1,885	2,041	146	8,138
Part-time (thousands)	1,760	3,423	1,760	75	6,141
Percent Undergraduate Enrollment	80%	100%	72%	100%	86%

Source: Digest of Education Statistics, 1996. Tables 237, 192, 194, and 174.
[1] *1995-96 Academic year*
[2] *Fall 1994*

The diversity within American higher education is also reflected in the prices institutions charge students to attend. The average undergraduate tuition ranged from $1,245 in public two-year colleges in the Fall of 1996 to $15,581 in private universities. Tuition, however, generally does not cover the full cost of the students' education. This means that *all* students — both those in public and private institutions — receive a subsidy.

Posted tuition does not include other education-related costs borne by students such as books, special laboratory fees, and living expenses (room and board if living on campus, or rent or related housing costs if the student lives off campus). Furthermore, for a large percentage of students and families, the price actually paid to attend college bears little resemblance to the tuition charged and other education-related expenses. This occurs because many students receive some form of financial aid (See Table 2.) In 1995-96, for example, 80 percent of full-time undergraduates at private four-year institutions (and 70 percent of part-time students) received aid. For public four-year institutions, 66 and 48 percent respectively received aid, and for two-year institutions, 63 and 36 percent.

Finally, since financial aid awards are often based on financial need, students from lower income families tend to pay less to attend the same institution as students from higher income families. In 1995-96, full-time undergraduates who were financially dependent on their parents and whose family incomes were less than $40,000 paid, on average, $5,412 to attend a public university (this estimate subtracts all financial aid awards from tuition and other education-related expenses). Undergraduates whose family incomes exceeded $80,000 paid almost twice as much, $10,376. Indeed, while much of the public attention focuses on increases in tuition, tuition is but one element of the price of attending college.

Table 2: Percentage of Undergraduates Receiving Financial Aid, by Type of Institution: 1995-96

	Public		Private	
	Four-year (%)	Two-year (%)	Four-year (%)	Two-year (%)
Full-Time Students				
Percent receiving any financial aid	66	63	80	82
Percent receiving grants	49	44	72	63
Percent obtaining loans	45	16	57	56
Percent participating in work-study	8	6	26	6
Part-Time Students				
Percent receiving any financial aid	48	36	70	49
Percent receiving grants	34	31	47	34
Percent obtaining loans	30	8	29	30
Percent participating in work-study	4	1	4	0

Source: National Postsecondary Student Aid Study, 1996.
Note: Percents for specific types of financial aid do not sum to the percent receiving any financial aid because students often receive more than one form of aid.

Defining Terms and the Scope of Our Review

Understanding the Commission's review of costs and prices requires defining terms such as *cost, price*, and *general subsidy*. Defining these terms is not just a technical sidenote, of interest only to policy analysts; a major semantic challenge exists in our national discussion of college costs. The term "cost" is used interchangeably to mean at least four different things: it can mean the *production cost*, or the cost of delivering education to a single student. It can also mean the "sticker" price, or the posted *nominal price* students are asked to pay in tuition and fees. It is also used to describe the *cost to the student* to attend college — including not just tuition and fees, but room, board, books, supplies, and transportation. Finally, it can mean the *net price* paid by the student after financial aid awards are subtracted from the full cost to the student.

Despite their obvious differences, these different concepts are often discussed as if they were the same thing. This Commission believes the confusion arising from the careless use of these terms — as well as inattention within higher education to the relationships between cost and price — to be so serious that we have devoted considerable time and attention to distinguishing among them.

It is important to make a clear distinction between expenditures that *institutions incur* in order to provide education (costs) and expenses that *students and families face* (prices). Furthermore, there is another factor not considered in most conversations on these issues: what students pay is not the total cost of education. There is a *general subsidy* that goes to all students, regardless of the institution they attend or whether they receive any financial aid. Therefore, the Commission makes a major effort to define its terms carefully, and to use the terms "cost," "price," and "subsidy" consistently. (See Figure 1.)

Figure 1: Definitions of Cost, Price, and General Subsidy

Costs: What institutions spend to provide education and related educational services to students

- **Cost per student:** The average amount spent annually to provide education and related services to each full-time equivalent student

Price: What students and their families are charged and what they pay

- **Sticker price:** The tuition and fees that institutions charge
- **Total price of attendance:** The tuition and fees that institutions charge students as well as other expenses related to obtaining a higher education. These expenses could include housing (room and board if the student lives on campus, or rent or related housing costs if the student does not live on campus), books, transportation, etc. (This term typically is referred to by other higher education analysts as the "cost of attendance.")
- **Net price:** What students pay after financial aid is subtracted from the total price of attendance. Financial aid comes in different forms: *grants* are scholarships or "gifts" to the student that do not have to be repaid; *loans* are borrowed money that must be paid back, typically after the student leaves school; *work study* entails working to receive financial assistance. Because of the very different nature of grants vs. loans and work study, the Commission uses two different concepts of net price:
  - The first measure subtracts *only grants* from the total price of attendance. This concept provides a measure of *affordability*, or the amount of money a student actually pays to attend college.
  - The second measure subtracts *all financial aid* awarded — grants, loans, and work study — from the total price of attendance, to measure the amount of money a student needs in order to enter the college or university. This concept provides a measure of *access*, because, even though loans must be repaid, they allow a student to attend college, just like car loans allow many to buy a car who otherwise may not be able to afford one.

General Subsidy: The difference between the cost to the institution of providing an education ("cost per student") and the tuition and fees charged to students ("sticker price"). Students who attend institutions of higher education, regardless of whether they attend public or private colleges or universities, or whether they receive financial aid, typically receive a general subsidy. This general subsidy does not include subsidies some students receive from scholarships and other types of financial aid.

The Commission has also found that the traditional disregard of capital assets in discussions of educational expenditures is a major barrier to understanding the true costs of higher education. For this reason, the Commission has included capital expenditures in its estimates of the cost of education per student, and urges all colleges and universities to include its capital expenditures when estimating the cost of educating students.

The Commission also struggled with ways to classify and present the approximately 3,700 not-for-profit colleges and universities so as best to capture their diversity and character. In discussions of price, certainly the most important distinction to be made is that between private and public institutions. Because the nation's public colleges and universities receive considerable, but varying, support from the states in which they are located, tuitions at public institutions are typically much lower than those at private institutions. And, tuitions at public two-year colleges tend to be even lower than those at four-year institutions.

For the sake of simplicity, and given available data and their limitations, our analysis presents findings for three groups of institutions: public four-year colleges and universities; private four-year colleges and universities; and public two-year colleges (often referred to as community colleges). Moreover, our analysis is limited to one category of students — full-time undergraduates who are financially dependent on their parents and who attend schools in the not-for-profit sector.

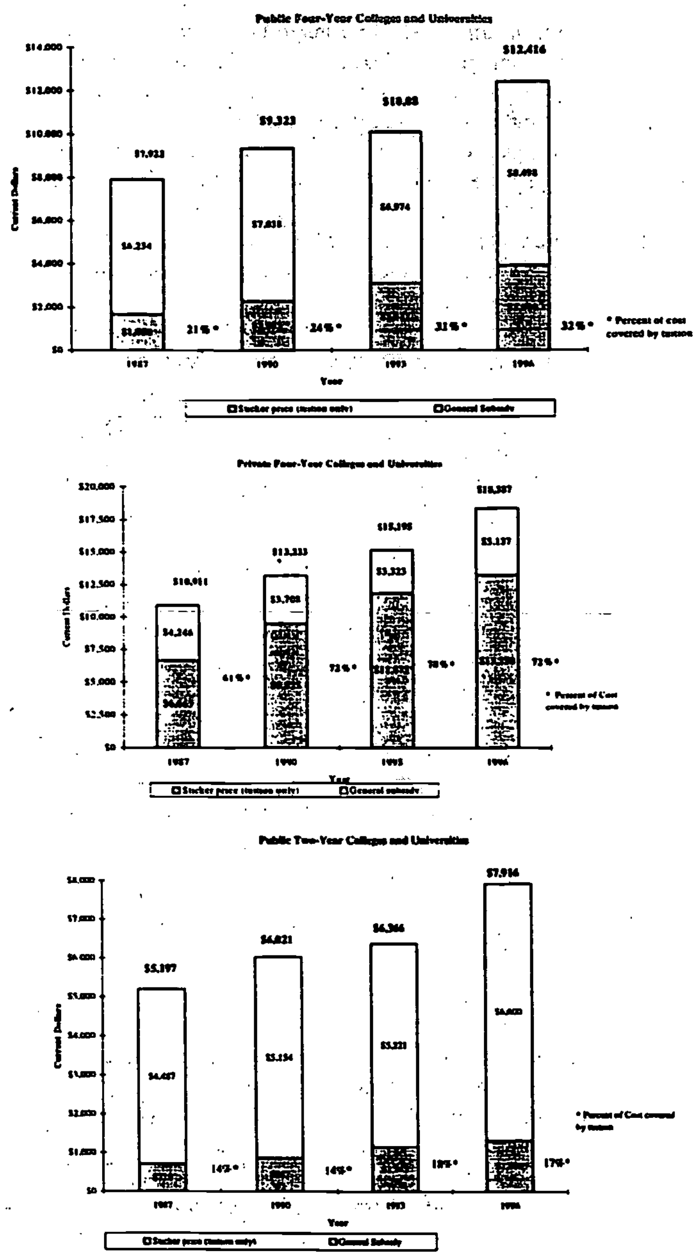
Of course, the Commission understands the limitations in its work. There are many ways to group institutions of higher education and the categories chosen do not reflect all institutions: it does not consider proprietary (i.e., profit-making) institutions. It also knows that it is not only full-time dependent undergraduates who experience difficulty covering their expenses. The Commission is concerned about students experiencing financial difficulty, whatever their status and wherever they go to school. However, given available data and their limitations, the Commission feels most confident drawing conclusions about full-time undergraduates in the not-for-profit sector using these institutional categories.

Trends in Costs, Prices, and Subsidies

Although most public discussion of the affordability of higher education focuses on tuition charges and increases, tuition (i.e., "sticker price") is but one component of the college cost/price picture. As noted, the total price (tuition plus other educational expenses), net price, and instructional cost per student — and the complex interrelationships among these concepts — should all be included in discussions of why the price of attending college may be increasing. Below we present what we have learned about costs, prices, and generalized subsidy for our three types of institutions and how they have changed over time. (See Figure 2.)

Public four-year colleges and universities. Between 1987 and 1996,[3] the instructional cost per student increased from $7,922, on average, to $12,416, an increase of 57 percent. During this same period, the sticker price increased considerably faster, 132 percent, from an average of $1,688 to $3,918. The general subsidy, which averaged $6,234 in 1987, increased 36 percent, to approximately $8,500 in 1996. Thus, the sticker price, or tuition, increased much faster than either instructional costs or the subsidy. During part of this period — between fiscal years 1990-91 and 1992-93 — state appropriations in 16 states declined and tuitions in many of these states increased much higher than in previous years. In most of these states, appropriations began to increase again in 1994. Thus, declines in state appropriations to higher education during a small portion of this period cannot totally account for the rate at which public four-year tuitions rose between 1987 and 1996. In public four-year colleges and universities, the

Figure 2
Cost, Tuition, and General Subsidy: 1987 to 1996



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percentage of total student costs covered by the general subsidy declined from 79 percent to 68 percent.

Private four-year colleges and universities. In these institutions, the cost per student increased between 1987 and 1996 from an average of $10.011 to $18,387. This represents a 69 percent increase. Tuition, or sticker price, increased by 99 percent — lower in percentage terms than for the public four-year colleges, but higher in real-money terms because of the higher base. from $6,665 to $13,250. Even in the private sector, the percentage of per-student costs covered by the general subsidy declined by 11 percentage points, from 39 percent in 1987 to 28 percent in 1996. The Commission does not understand the sources of subsidies in private institutions as well as it does subsidies in public institutions; endowment income cannot be a complete explanation since it only represents a significant contribution to a relatively small number of colleges and universities.

Public two-year colleges. For these institutions, total costs per student increased by 52 percent between 1987 and 1996, from an average of $5,197 to $7,916. Sticker prices increased 85 percent, from $710 to $1,316. Similar to the situation for public four-year colleges and universities. subsidies to public two-year colleges declined for part of this period. Among all three institutional types, the decrease in the general subsidy was lowest for public two-year colleges; here the percentage of total costs covered by the general subsidy declined only from 86 to 83 percent.

In all three institutional categories, tuition (or sticker price) increased faster than cost per student between 1987 and 1996. It may be tempting to conclude that institutions acted irresponsibly. by charging students and their families higher tuition but not spending the additional revenue to improve or maintain the quality of the education provided. However. tuition is not the sole source of institutional revenue. and if other revenues declined, institutions may have been forced to increase their tuition revenue. We know that state appropriations to public higher education declined during part of this period and tuitions in many state institutions escalated even faster at that time. At best we can conclude that tuition appears to have increased faster than institutional costs in all types of colleges and universities. We believe that institutions themselves should explain to the public why this occurs.

Trends in College Affordability

The above discussion sheds light on the relationship between trends in higher education costs and sticker prices; however, it says little about the affordability of higher education for those who pay for it. If tuition had doubled over the past decade but incomes tripled during that same time, the general public may not be nearly as concerned about the affordability of higher education. However, the fact is that by two common measures of income — median household income and per capita disposable income — college tuition increased faster than income.

Before turning to a comparison of tuition and income, it is important to reiterate that a discussion of college affordability must account for the fact that many students do not pay the total price to attend college. Not only does total price not reflect the full *cost* of higher education, because of the subsidies described above, many students do not pay the total price of attendance, because they receive financial aid. A discussion of college affordability, therefore, must examine the prices that students *actually* pay for their education (i.e., after financial aid), which we refer to in this report as the *net price*.

Income and net price. Two calculations of net price are presented here since they represent two fairly different concepts. The first calculation only subtracts grants from the total price. The result represents a measure of *affordability*, the actual amount a student has to pay. The second calculation subtracts all financial aid (grants, loans, and work-study) from the total price. The Commission believes that this measure represents *access* to higher education, because, even though the loans must be repaid eventually and the student must work to receive work-study money, without this aid, the student might not be able to get in the door of any institution.

Between 1987 and 1996, median family income rose 37 percent and disposable per-capita income rose 52 percent. During this same period, both measures of net price rose considerably faster. (See Table 3.) Specifically, the price of attendance minus grants rose 114 percent at public four-year institutions, 81 percent at private four-year institutions, and 159 percent at public two-year institutions. Total price minus all financial aid (grants, loans, and work-study) demonstrates a similar pattern: this measure of net price increased 95 percent at four-year institutions, 64 percent at private four-year institutions, and 169 percent at public two-year institution.

It is important to note, however, that changes in net price appear to have moderated between 1993 and 1996. Indeed, for students attending public four-year institutions, our measure of affordability (total price minus grants) increased only 10 percent for this time period and our measure of access (total price minus all aid) actually did not increase. Private four-year institutions followed a similar pattern, with total price minus grants only increasing by 4 percent between 1993 and 1996 and total price minus all aid declining slightly, by approximately 7 percent. These changes should be interpreted cautiously; sticker price did not increase as fast relative to median family income or disposable per capita income across this time period as it did in earlier time periods, but increases nonetheless occurred. The apparent moderation in net price can more likely be attributed to increased availability of financial aid, particularly loans.

Over the total time period examined, 1987 to 1996, total student aid from all sources increased by 128 percent. Although three-quarters of all aid comes from Federal sources, the largest *rate* of increase in aid during this period came from institutional sources, which went up by 178 percent. Within the Federal programs, the lion's share of the increase was in loan volume under the guaranteed student-loan programs — the Federal Family Education Loan and Federal Direct Student Loan (FFEL/FDSL). The number of recipients obtaining loans under these programs increased by 87 percent between 1987 and 1996. Because a greater number of students received aid, Federal aid per recipient was less than the increase in aid spending. Average Pell grant awards, for example, increased 21 percent, and the FFEL/FDSL awards by 41 percent.

Table 3: Changes in Total Price of Attendance and Net Prices, 1987 to 1996

	Public Four-year		Private Four-year		Public Two-year	
	1987	1996	1987	1996	1987	1996
Total per-student price Percent change	$5,146	$10,759 (109%)	$10,896	$20,003 (84%)	$2,808	$6,761 (141%)
Total price minus grants Percent change	$4,385	$9,365 (114%)	$8,307	$15,069 (81%)	$2,345	$6,067 (159%)
Total price minus all aid Percent change	$3,715	$7,262 (95%)	$6,823	$11,205 (64%)	$2,125	$5,717 (169%)

Source: National Postsecondary Student Aid Study, 1996.

"COST AND PRICE DRIVERS" IN HIGHER EDUCATION

What lies behind increases in tuition? Several of the issues that Congress asked the Commission to address point to potential explanations for rising college costs with the assumption that rising costs result in rising prices. The "cost drivers" that the Commission reviewed can be grouped into six categories: (1) financial aid, (2) people, (3) facilities, (4) technology, (5) regulations, and (6) expectations.

Financial Aid. The Commission reviewed a number of studies on the connection between student financial aid in public and private non-profit institutions of higher education and costs and prices, and it commissioned two analyses of its own. (Figure 3 describes the major programs of Federal student aid — grants and work-study, loans, and newly-enacted tax incentives.)

The Commission finds no evidence to suggest any relationship between the availability of Federal grants and the costs or prices in these institutions. Less than one student in four receives a Federal grant, which pays for less than 10 percent of the total price of attendance in either sector. And, although the methodology of financial need analysis is tuition-sensitive, the maximum Pell grant award is capped at $3,000.

The Commission has found no conclusive evidence that loans have contributed to rising costs and prices. One commissioned paper suggests that Federal loan availability has helped contribute to rising prices.[4] Another paper suggests that the capital available through loans has allowed colleges to increase their charges — and allowed independent colleges in particular to maintain enrollment — in ways that would not have been possible otherwise.[5] The Commission knows of other studies which come to conclusions opposite to these. This question should be studied in greater detail and with much greater attention to empirical facts.

The members of the Commission are, however, unanimously concerned about sharp increases in student borrowing. What is unclear is whether these increases have occurred because (1) higher loan limits and the new "un-subsidized" program permit more borrowing; (2) more families are choosing to finance college expenses through loans rather than from savings or current income; or (3) the price of attending higher education has increased. The Commission's judgment is that all three factors are probably involved.

Finally, the Commission looked at the relationship between institutional financial aid and increases in student prices. In this instance, there is slightly stronger evidence that increases in institutional aid have been one of the cost and price drivers, as institutional aid grew by 178 percent between 1987 and 1996. Since most of the revenue for institutional aid comes from tuition dollars, it seems reasonable to conclude that tuitions could have increased slightly less had institutions not been putting these revenues into institutional aid. At the same time, however, had institutions not generated revenue to pay for institutional aid, student borrowing would have had to increase to maintain access, or access would have had to diminish.

Figure 3

The Complex Picture of Student Financial Aid

The major Federal programs providing financial assistance to students can be thought of in three categories: grants, loans and tax incentives of various kinds. Most of these are directed to low- and middle-income students with financial need.

Grants and Work Study

The **Pell Grant Program** provides awards of between $400 and $3,000 for low-income students, most of whom are from families with annual incomes below $20,000. This program is funded at $7.34 billion in Fiscal Year 1998.

The **Supplemental Educational Opportunity Grant Program** provides additional grant aid to students from extremely low-income families. This program is funded at $614 million in Fiscal Year 1998.

The **Federal Work Study Program** helps to pay for jobs on- and off-campus as part of need-based financial aid packages. Unlike the Pell and supplemental grant programs, which are available only to undergraduate students, Federal Work Study aid also assists graduate and professional students. This program is funded at $830 million in Fiscal Year 1998.

Loan Programs

A variety of loan programs, many with interest subsidized and deferred, exist to help cover college costs for undergraduate, graduate, and professional students. The **Perkins Loan Program** (formerly the National Defense Loan Program) provides low-interest loans to low-income students. Perkins Loan funds, which are a combination of Federal and institutional capital contributions, are administered on campus. Additional loan capital is generated as collections on prior loans are deposited into the institution's revolving fund.

Stafford Loans are available to students from all income levels. Students who demonstrate financial need are eligible for interest subsidies; students who do not demonstrate need, while not eligible for interest subsidies, may defer loan and interest payments while in school and under certain other circumstances. **PLUS Loans** provide assistance to parents of students of dependent undergraduate students in an amount up to the cost of college attendance less other financial aid. Both the Stafford and Plus loan programs are available through financial institutions (Federal Financial Education Loan Program) or directly through the Federal Government (William D. Ford Direct Loan Program). Roughly two-thirds of $30 billion in current annual loan volume is provided through the former, the remaining loan capital is provided by the latter.

Tax Incentives

The budget agreement hammered out by Congressional and White House negotiators in August 1997 provided about $40 billion over five years in tax breaks to help students pay for higher education. They include:

Hope Scholarships, aimed at making two years of college universally available, provide a dollar for dollar nonrefundable tax credit for 100 percent of the first $1,000 of tuition and fees and 50 percent of the second $1,000. Available for college enrollment after January 1, 1998, the credit phases out for joint filers with incomes between $80,000 and $100,000, and for single filers between $40,000 and $50,000.

College juniors, seniors and graduate students may receive a nonrefundable 20 percent tax credit on the first $5,000 of tuition and fees through 2002 (and the first $10,000, thereafter). To encourage lifelong learning, the credit is also available to working Americans. The credit, effective after July 1, 1998, is phased out at the same income levels as the Hope Scholarship. Unlike the Hope Scholarship, the Lifetime Learning Credit is calculated on a per family, rather than a per student, basis.

Education and Retirement Savings Accounts allow penalty-free IRA withdrawals for undergraduate and graduate programs and postsecondary vocational programs. In addition, eligible taxpayers can deposit $500 annually into an education IRA which will accumulate earnings tax-free, with no taxes due until withdrawal for approved purposes.

Other Major Provisions: Workers can exclude $5,250 of employer provided education benefits from taxable incomes; eligible taxpayers can deduct up to $2,500 per year of interest paid on education loans and exclude from taxable income loan amounts forgiven for participating in community service jobs; and taxpayers are exempt from taxation on some earnings on pre-paid tuition plans.

People. Three groups of people are associated with higher education costs: students, administrators, and faculty. Changes in the composition of — or policies regarding — these groups can contribute to rising costs.

Students. Changes in the students who now attend our nation's colleges and universities have the potential for increasing institutional costs. In recent years, college campuses have found themselves populated with more part-time and older students. Between 1980 and 1994, the percentage of undergraduates enrolled part-time, for example, increased from 28 percent to 42 percent of all students enrolled.[6] "Nontraditional" students bring with them some nontraditional needs, such as child care, re-entry counseling, and tutoring, to name but a few possibilities. Since tuition structures typically do not reflect differing student needs and use of services, the cost of educating part-time and older students could be increasing costs. Furthermore, standard practices of estimating the educational costs per full-time-equivalent student (e.g., three part-time students are considered equivalent to one full-time student) probably do not capture the real costs of educating part-time students.

The need to offer remedial courses to students could also contribute to rising costs. Approximately 78 percent of all colleges and universities that enroll freshman offered some type of remedial course (typically reading, writing, or mathematics) in the fall of 1995. Although it is difficult to provide national estimates of the costs, data for individual institutions exists. For example, in 1993-94, California spent $9.3 million to provide remedial courses for students on the 22 campuses of the California State University system, representing just under one percent of the system's total budget.[7] A Florida legislative report said that, with nearly 70 percent of community college freshman requiring remedial education courses, Florida community colleges are spending $53 million a year providing this type of instruction.[8]

Increasing accessibility for students with disabilities is also a potential cost driver. While no one argues the necessity of providing access and related services, the cost is relatively new and it is real. Estimates of the cost of complying with the Americans with Disabilities Act (ADA) range from an average of $694,000 for public two-year institutions to $12,867,000 for public research institutions.[9]

Administrators. The need to employ more administrators to cover both expanded services and larger numbers of Federal, state, and local regulations combined with higher administrative salaries is thought to drive up administrative costs.

This contention may be true for the first half of the 1980s, when administrative expenditures increased as a share of total educational and general (E&G) expenditures, but, between 1987 and 1994, administrative expenditures either remained the same or fell, as a percentage of total E&G expenditures. Another way of looking at rising administrative costs is that administrative expenditures per full-time-equivalent (FTE) student increased over 22 percent between 1979 and 1986, but less than 1 percent between 1986 and 1993, after adjusting for inflation. The expenditures for student services costs increased 16 percent during each of the two time periods in question.[10]

Faculty. Many believe that the labor structure and tenure system of college faculty drive up college costs. It is true that higher education is a labor-intensive industry and that changes in policies that affect the number of faculty required to teach courses as well as the types of faculty hired (part-time vs. full-time, tenured vs. non-tenured) have an impact on an institution's cost of providing education.

There is little evidence to suggest, however, that changes in faculty hiring practices or workload have driven up college costs in the past decade. In fact, there has been movement in the opposite direction. In an effort to control costs, institutions have hired more part-time and non-tenured faculty and increased the number of hours faculty spend in the classroom: the proportion of part-time faculty and staff employed by colleges and universities increased from 33 percent of all instructional faculty and staff in 1987 to 42 percent in 1992. In the same period, the percentage of instructional faculty and staff with tenure declined from 58 to 54 percent. And, the reported number of student contact hours at all institutions increased from 300 in 1987 to 337 in 1992.[11]

Facilities. Growth in higher education enrollments over the past 30 years has meant that colleges and universities have had to construct new classrooms, laboratories, and dormitories to accommodate students. Serving students with special needs has also meant that higher education institutions have had to redesign classrooms, dormitories, and other public spaces.

Looking to the future with regard to campus facilities' needs does not provide a rosy picture. A 1997 study completed by the Association of Higher Education Facilities Officers, the National Association of College and University Business Officers, and Sallie Mae estimates deferred maintenance costs for all campus facilities to be approximately $26 billion. Facilities could thus become a major cost driver in the next decade.

Technology. The percentages of courses using technology in a variety of capacities has risen significantly just since 1994.[12] Institutions must provide equipment for faculty and students as well as the infrastructure to accommodate it. Given the age of many campus buildings and the state of the infrastructure to support this equipment, this expense is substantial.

To cover the costs of technology, some campuses have instituted mandatory computer/instructional technology fees, thus passing on some of the costs to students. These fees ranged from an average of $55 per student in community colleges to $140 in public universities.[13] It appears that increasing costs for technology almost certainly translate into higher prices charged to students.

Although technology holds promise for making educational operations more efficient and less costly, there is no evidence to date to indicate that the use of technology in higher education has resulted in widespread cost savings to colleges and universities.

Regulations. The number and types of regulations with which colleges and universities are asked to comply have grown rapidly in recent years. Complying with these regulations costs money. The Federal government regulates colleges and universities through a maze of mandates covering personnel, students, laboratory animals, buildings, and the environment. Stanford University, for example, estimates that the university incurs approximately $20 million a year (or 7.5 cents of every tuition dollar) in costs related to complying with a range of regulations.[14]

The cost of accreditation has also increased in recent years. There has been significant growth in the number of accrediting bodies, particularly specialized ones. Currently, accrediting activities are undertaken by approximately 60 specialized agencies overseeing more than 100 different types of academic programs. Institutions report that the self-study procedures involved with these accrediting efforts overlap and duplicate one another and absorb large amounts of faculty and administrator time.

Expectations. Less concrete than the other cost and price drivers are changing expectations about quality. Prospective students visiting college campuses today expect to see gyms equipped with state-of-the-art exercise equipment and facilities. Students also expect a complete range of course offerings, dormitories that are wired for computers as well as stereo equipment, and specialized counselors who can advise on personal as well as career and job placement matters. The changing student population has also brought changing expectations to campus. Parents look for child care on campus; older students returning to college anticipate counseling relevant to their interests; and part-time students who work during the day expect courses (and administrative services) to be available on evenings and weekends. These changing expectations cost money.

The expectations of faculty and administrators have also been changing. The curriculum has become more specialized and institutions now support entire disciplines that did not exist a generation or two ago. Many faculty also prefer to teach only certain courses, or to restrict their undergraduate teaching to upper-division courses. And, in many institutions, faculty also expect the university to provide space, equipment, and time for their research.

Many of these expectations — from parents and students and administrators and faculty members — are perfectly reasonable standing alone. But in combination, the accumulated effect of these expectations is continual institutional pressure to increase spending.

The Opaque Relationship between Costs and Prices

A number of different factors contribute to increasing higher education costs. However, linking specific cost increases to price increases is a tricky matter: Quite simply, the available data on higher education expenditures and revenues make it difficult to ascertain direct relationships among cost drivers and increases in the price of higher education.

Institutions of higher education, even to most people in the academy, are financially opaque. Academic institutions have made little effort, either on campus or off, to make themselves more transparent, to explain their finances. As a result, there is no readily available information about college costs and prices — nor is there a common national reporting standard for either. (National does not mean Federal: it means a standard that is understood and commonly accepted in the profession.) Indeed, differences in financial reporting standards that have evolved in the current environment of quasi-self-regulation contribute to confusion about how to measure costs in a straightforward way. Colleges report on financial standards using one methodology; report expenditures using another; and conform to government cost-recovery principles with yet a third.

What the Commission can assert, however, is a basic fact about academic finance: Virtually no activity, other than self-supporting auxiliary enterprises such as dormitories and cafeterias, generates enough revenue to pay for itself. Everything is "subsidized" to a greater or lesser extent, either through tax revenues, endowment income, or private giving.

In addition, there are wide disparities in expenditure levels between and among different instructional levels and disciplines. For example, courses in the "hard" sciences typically are more expensive to offer than courses in the humanities or social sciences. Yet most institutions do not charge higher tuition for higher cost programs, and lab fees (when assessed) barely begin to cover the costs. Or, to take another example, it is clear that on most campuses undergraduate instruction usually, but not always, costs less to provide than graduate education. But differences in tuition and fee levels for undergraduate and graduate courses of study generally do not reflect the true cost differential.

The truth is that institutions prefer not to look too hard at these matters, both because a broad-based curriculum is a desirable thing in and of itself and because of a desire to base decisions on quality and not on costs.

This Commission, therefore, finds itself in the discomfiting position of acknowledging that the nation's academic institutions, justly renowned for their ability to analyze practically every other major economic activity in the United States, have not devoted similar analytic attention to their own internal financial structures. Blessed, until recently, with sufficient resources that allowed questions about costs or internal cross-subsidies to be avoided, academic institutions now find themselves confronting hard questions about whether their spending patterns match their priorities and about how to communicate the choices they have made to the public.

CONVICTIONS AND RECOMMENDATIONS

Based on its review of college affordability, this Commission has arrived at five key convictions about the college cost and price crisis:

Conviction 1: The concern about rising college prices is real. The Commission has observed the anxiety in parents' faces as they talk about the price of sending their children to college. People consider a college degree as essential to their children's future, as something of great value because it promises their children a better life. And, they also worry that access and opportunity are slipping away. These are genuine public fears to which academic institutions must respond.

Although concerns and perceptions about price are not entirely wrong, they are not always based on sound factual information. Moreover, as we have noted, institutions of higher education are not always fiscally transparent. Academic leaders must address these issues.

Here, however, academic institutions face a genuine challenge. It is quite clear from parents this Commission talked with, that many members of the general public have little interest in complicated explanations of higher education finance. As important as these matters are for institutional leaders, parents are interested simply in what they will have to pay when their children go to college — indeed if they can afford to send them at all. In responding to public concerns about prices, academic leaders must provide information that is comprehensive, comprehensible, accessible, and persuasive.

Conviction 2: The public and its leaders are concerned about where higher education places its priorities. We have relearned something most academic leaders always knew: higher education costs are driven by people and by how these people spend their time.

But, because academic institutions do not account differently for time spent directly in the classroom and time spent on other teaching and research activities, it is almost impossible to explain to the public how individuals employed in higher education use their time. Consequently, the public and public officials find it hard to be confident that academic leaders allocate resources effectively and well. Questions about costs and their allocation to research, service, and teaching are hard to discuss in simple, straightforward ways — and the connection between these activities and student learning is difficult to draw. In responding to this growing concern, academic leaders have been hampered by poor information and sometimes inclined to take issue with those who asked for better data. Academic institutions need much better definitions and measures of how faculty members, administrators, and students use their time.

The skepticism underlying this concern about where higher education places its priorities is a major consequence of higher education's inability to explain its cost and price structure convincingly to the public. Some cost data are unavailable; much of the information that is provided is hard to understand. College finances are far too opaque. Higher education has a major responsibility to make its cost and price structures much more "transparent," i.e., easily understandable to the public and its representatives.

Conviction 3: Confusion about cost and price abounds and the distinction between the two must be recognized and respected. Issues of cost, price, subsidy, and net price have been difficult for the members of this Commission to master. They are equally, if not more confusing to members of the public. These are complex topics, and higher education must strive continuously to clarify and communicate them clearly and candidly.

Beyond that, American families are confused and poorly informed — not only about costs and prices, but also about the entire matter of how to access higher education and its complicated system of financial aid.

The Commission believes that the message about prices (what students and families actually pay) is more encouraging than much of the public dialogue acknowledges, even if it is not entirely comforting. Moreover, the increase in the price students are asked to pay has begun to moderate in recent years. Academic institutions must continue their efforts to control costs — and hence prices — or risk the unpalatable alternative of government intervention.

Conviction 4: Rising costs are just as troubling a policy issue as rising prices. This Commission is concerned because institutional costs (not just prices) are also rising. Unless cost increases are reduced, prices in the long run cannot be contained without undermining quality or limiting access.

Some of the factors behind these cost increases can be understood and explained. As noted previously, tuition tends to go up as public subsidies go down. Administrative costs have increased as a share of total expenditures.[15] The expense of building or renovating facilities and of acquiring and implementing modern technologies has the potential of becoming a significant cost driver.[16] The cost of providing institutional aid (or discounting tuition sticker prices) for needy students increased by nearly 180 percent in the ten years between 1987-88 and 1996-97.[17] Federal, state, and local laws, regulations, and mandates have undoubtedly added to academic costs.[18]

Some policymakers worry that Federal financial aid might have encouraged tuition increases. This Commission is confident that Federal grants have not had such an effect, at either public or private institutions. The Commission believes no conclusive evidence exists with respect to *Federal loans* and believes this issue deserves serious and in-depth additional study.

Aside from such general observations, the Commission does not have solid information to help identify specific factors driving cost and price increases. The simple truth is that no single factor can be identified to explain how and why college costs rise. The Commission suspects that part of the underlying dynamic is the search for academic prestige and the academic reward systems governing higher education. This institutional emphasis on academic status is reinforced by a system of regional and specialized accreditation that often encourages increased expenditures by practically every institution.

The complexity of the interrelationships among these and other factors convinces the Commission that policymakers should avoid simple, one-size-fits-all solutions to the challenge of controlling or reducing college costs. Costs are increasing for a variety of reasons. The response to these mixed and subtle causes. must be similarly mixed and sophisticated.

Conviction 5: The United States has a world-class system of higher education. The United States has a diverse system, one that provides more opportunities to acquire a high-quality education. for citizens of all ages and backgrounds, than any other society. American higher education is a public *and* a private good. American academic institutions represent an investment in the nation's future, one that yields dividends every day, for both individuals and society. It is little wonder that the world has beaten a path to the door of the American university.

Nonetheless, Academic leaders cannot take the continued pre-eminence of their institutions for granted. Although it requires a long time to build an outstanding nationwide system of higher education, such a system can deteriorate very rapidly. In the Commission's judgment. one of the few things capable of precipitating such a decline in the United States would be an erosion of public trust so serious that it undermined ongoing financial support for the nation's academic enterprise. Continued inattention to the imperative to make academic institutions more financially transparent threatens just such an erosion.

Recommendations: An Action Agenda

The Commission believes its analysis of some of the national data about higher education finance has broken new ground. especially in clarifying the connections between and among cost. price. subsidy. and affordability. Nevertheless, the best national data are insufficient to provide the kind of clear information on these trends that policymakers and the general public need. For example. the terms of analysis used by different parties are not always consistently defined: institutional costs and student costs are two different things; prices and costs are not the same; and prices charged and prices paid often bear little relationship to each other.

The persistent blurring of terms (both within and beyond higher education) contributes to system-wide difficulties in clarifying the relationship between cost and quality; defining the difference between price and cost: distinguishing between what institutions charge and what students pay; and ultimately to systemic difficulties in controlling costs and prices.

If we are to clarify these relationships and control expenses, several things must happen. Academic institutions should start to use these terms systematically and regularly; policymakers must realize that costs and subsidies need to be better managed if prices are to be controlled; and academic leaders must acknowledge that, before they can manage costs and explain prices to the public, they themselves have to do a better job of measuring and understanding both.

The Commission organizes its recommendations around a five-part action agenda grounded in the concept of shared responsibility. Many different participants have contributed to the academic cost dilemma: all of them must be involved in resolving it. In the Commission's view, these actors have a shared responsibility for achieving five policy goals:

- **strengthening institutional cost control;**
- **improving market information and public accountability;**
- **deregulating higher education;**
- **rethinking accreditation; and**
- **enhancing and simplifying Federal student aid.**

Sharing Responsibility. The Commission is convinced that many different stakeholders have contributed to the college cost and price crisis; consequently, all of them will have to contribute to the solutions. We believe institutions of higher education, government at all levels — Federal, state and local — the philanthropic community, and families and students have essential and complementary roles to play in maintaining affordable, high-quality education well into the future. Each of these stakeholders in some fashion influences or subsidizes the cost and price of American higher education. They have a common obligation to respond to the issues outlined in this report: Government needs to invest in higher education as a public good: foundations should continue to support policy research and the search for innovation: parents should be prepared to pay their fair share of college expenses; and students should arrive at college prepared for college-level work.

But without doubt, the greatest benefits depend on academic institutions shouldering their responsibility to contain costs, and ultimately prices. Although the responsibility for controlling costs and prices is widely shared, the major onus rests with the higher education community itself.

I. Strengthen Institutional Cost Control

THE COMMISSION RECOMMENDS *that academic institutions intensify their efforts to control costs and increase institutional productivity.*

The Commission is convinced that academic institutions have done a lot to control costs but they must achieve more in the way of cost containment and productivity improvement. The drive for greater efficiency, productivity, and fiscal transparency requires an expanded definition of academic citizenship, one that is broadly participatory, involving faculty, administrators, students, staff, and trustees.

The effort the Commission is calling for should challenge the basic assumptions governing how institutions think about quality and costs. This will require a greater willingness to focus institutional resources on a few priority areas where excellence can be sustained. It should include new cost saving partnerships among institutions.

The Commission believes it is impossible to formulate an effective single set of directives on cost control applicable to the diverse institutional settings and missions of American colleges and universities. The responsibility for cost control, like the responsibility for quality improvement, must be shouldered by each institution.

In recent years, American colleges and universities have made major efforts to reduce expenditures and control costs.[19] The Commission applauds this progress; however, it also believes that much more must be accomplished. To do so, the academic community must focus sustained attention on its own internal financial structures, the better to understand and ultimately control costs and prices. To that end, the Commission makes ten implementing recommendations to strengthen cost control and improve institutional productivity.

Implementing Recommendations:

1. Individual institutions, acting with technical support from appropriate higher education associations, should conduct efficiency self-reviews to identify effective cost-saving steps that are relevant to institutional mission and quality improvement.

2. Academic leaders should communicate the results of these self-reviews widely, providing the campus community and institutional constituents with information on issues such as administrative costs, faculty teaching loads, average class size, faculty and student ratios, facilities management, and expenditures on technology.

3. The Commission recommends the creation of a national effort led by institutions of higher education, the philanthropic community, and others to study and consider alternative approaches to collegiate instruction which might improve productivity and efficiency. The Commission believes significant gains in productivity and efficiency can be made through the basic way institutions deliver most instruction, i.e., faculty members meeting with groups of students at regularly scheduled times and places. It also believes that alternative approaches to collegiate instruction deserve further study. Such a study should consider ways to focus on the results of student learning regardless of time spent in the traditional classroom setting.

4. The Commission recommends similar national attention be devoted to developing new alternative approaches to thinking about faculty careers, beginning with graduate school education and extending to tenure and post-tenure review. These should explicitly consider the many ways in which tenure policies vary across institutions.

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5. The Commission recommends greater institutional and regional cooperation in using existing facilities at institutions of higher education. Implementation of this recommendation will vary within and across states. Whenever expansion of higher ed. public officials contemplate expanding the capacity of public institutions, they should consider the existing include capacity in all institutions and factor in promoting greater access through the use of financial aid, ~~and other strategies.~~

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6. The Commission recommends maximizing the opportunity for cost savings through joint campus purchase of goods and services and joint use of facilities, pursuing these opportunities through many different kinds of partnerships. Where necessary, states should ~~law should be changed~~ to make such partnerships possible.
consider stat. changes

7. The Commission recommends greater use of consortia and joint planning to maximize access to expensive academic programs. While acknowledging that some inefficiencies and redundancies are inevitable in America's diverse and decentralized system of higher education, the Commission believes that greater emphasis on consortia and joint planning offers significant opportunities for cost control. In states and regions with large numbers of institutions, creative ways need to be found to make the programmatic variety of each campus available to as many students as possible.

8. The Commission recommends that the philanthropic community, research institutes, and agencies of state and local government adopt the topic of academic cost control as a research area worthy of major financial support. In addition to grants to support efforts to undertake such changes, best-practice and recognition-award programs should be established and supported.

9. As part of the recognition-award effort, the National Association of College and University Business Officers should, in consultation with major higher education associations, develop programs that publicize innovative institutional practices that help control costs. As part of this effort, higher education associations should jointly

seek foundation support for annual awards to public and independent colleges and universities that have pioneered cost-management strategies.

10. Finally, we urge Congress to support academic efforts to control costs and improve productivity by:

    - amending Public Law 100-107 (which created the Malcolm Baldrige Award to recognize continuous quality improvement in the corporate sector) to include education; and
    - authorizing in the next reauthorizing cycle the U.S. Department of Education's Fund for the Improvement of Post Secondary Education (FIPSE) to continue to offer financial support for projects addressing issues of productivity, efficiency, quality improvement, and cost control.

II. Improve Market Information and Public Accountability

THE COMMISSION RECOMMENDS *that the academic community provide the leadership required to develop better consumer information about costs and prices and to improve accountability to the general public.*

The Commission is convinced that both policymakers and the general public need more useful, accurate, timely, and understandable information on college costs, prices, and the different subsidies that benefit all students. Leadership for this effort should come from the academy, from both institutions and higher education associations; but to be really effective of the entire thrust requires a partnership engaging appropriate Federal agencies, states, leaders of the press and electronic media, and the private sector.

For policymakers and the general public to act in a well-informed manner, more timely and reliable data are essential. The Commission was troubled by the sheer amount of incomplete and outdated information available from academic and government sources. Terms of analysis like cost, price, and subsidy are not clearly defined or generally understood. Financial standards, expenditure reports, and cost-recovery principles all rely on different methodologies. There is no common national reporting standard to measure costs or prices.

What is required, first, are comprehensive, easy-to-understand analyses of cost and price issues for different types of institutions by sector (e.g., public and private institutions, two- and four-year, with distinctions between four-year colleges and universities). These analyses should then be transformed into handbooks, available to the public, that provide the following cost and price information:

- the cost of educating students (i.e., the total institutional expenditure — capital costs included — to provide the education);
- actual tuition charges (i.e., sticker prices);
- the general subsidy (i.e., the cost minus the tuition charge);
- instructional costs by level of instruction;
- the total price of attendance (i.e., tuition, fees and other expenses);
- a net price "affordability" measure (i.e., total price minus grants); and
- a net price "accessibility" measure (i.e., total price minus all financial aid).

Although the Commission was not always able to obtain complete data on all these issues, the approach outlined above is consistent with the one used in this report. The Commission is convinced that these materials should also include information on financial-aid availability and options along with information on different types of institutions and their different price structures. To the extent possible, information should also include total and net prices for full- and part-time. dependent and independent students.

Above all, to be useful. these data should be issued annually. The aim is to provide up-to-date information and illustrate how all potential students — but especially those of limited financial means — can gain access to high-quality postsecondary education. The Commission understands that new accounting standards have been developed for private institutions and are currently being developed for public institutions. Further, the Commission is aware of efforts underway to redesign the Department of Education's Integrated Postsecondary Education Data Survey (IPEDS) to make it compatible with such standards. The recommendations below are offered to emphasize the Commission's belief in the importance of these efforts to the Commission's call for institutions of higher education to become more fiscally transparent. that is, more straightforward in describing to the public where they get their money and how they spend it.

To that end. the Commission makes eight implementing recommendations designed to improve market information and public accountability.

Implementing Recommendations:

1. The Commission calls on the higher education community to take the lead in organizing a major public-awareness campaign to inform the public about the actual price of a postsecondary education. the returns on this investment, and family preparation for college.

2. The Commission recommends that individual institutions of higher education annually issue to their constituent families and students information on costs, prices. and subsidies in the way the Commission has approached these issues in this report.

3. The Commission recommends that the U.S. Department of Education collect and make available for analysis not only annual tuition and price data but also information on the relationship between tuition and institutional expenditures.

4. The Commission strongly encourages multiple agencies in the private sector to use those data for developing college-cost reports or handbooks that are widely disseminated to prospective students, their parents, and the media — in print and over the Internet.

5. The Commission recommends that, where necessary, the format of existing governmental and private higher education data-collection systems and financial reports be modified to allow for collecting and reporting information that calculates costs, prices. and subsidies the way the Commission has approached them in this document.

6. In that regard. IPEDS should be redesigned to collect such information. It can then be made available to any person or institution, in a form that is comparable for public

and private institutions. The redesigned survey should include estimates of direct instructional costs by level of instruction. capital expenditures. and the replacement value of capital assets. It should also be expanded to improve data (and data comparability) on faculty compensation and workload as well as on factors related to administrative efficiency.

7. The Commission urges the National Accounting Standards bodies for institutes of Higher Education (The Financial Accounting Standards Board for private institutions and the Government Accounting Standards Board for public institutions) take whatever steps are necessary to assure that the financial reports of these institutions offer fiscally transparent information about college finances that allow for valid comparisons between public and private institutions.

8. The Commission recommends the following with respect to the collection and analysis of different kinds of data, particularly financial data:

   a) The National Center for Education Statistics, working with the appropriate organizations. especially higher education associations, should redouble its efforts to ensure that institutions respond in a timely manner to surveys and that survey data are edited and released in a timely manner.
   b) The National Center for Education Statistics should take steps to understand how institutions respond to the IPEDS financial survey, particularly given changes in accounting and reporting standards for private, not-for-profit institutions. This is necessary because there are several acknowledged inconsistencies in the way institutions report the information they are required to submit.
   c) The U.S. Department of Education should undertake a study to gather comprehensive data on the needs of part-time students, including the actual costs to the institutions educating high numbers of such students. This study should be integrated into the Department's higher education data-collection efforts. Given increasing numbers of part-time students and reliance on a formula that equates three part-time students to one full-time student, such a study would provide more accurate and reliable cost measures.
   d) The Commission recommends that the U.S. Department of Education investigate the feasibility of gathering data on proprietary schools and the students who attend them.

III. Deregulate Higher Education

THE COMMISSION RECOMMENDS *that governments develop new approaches to academic regulation, approaches that emphasize performance instead of compliance, and differentiation in place of standardization.*

Members of the Commission believe that institutions of higher education have a responsibility to be good public citizens, not just in their teaching, research, and service missions, but also as employers, vendors, and good neighbors in their communities. The Commission is also aware that a variety of regulations, some accompanying public funding and some independent of it, are intended to ensure public health and safety or accountability in the use of tax dollars. The Commission clearly supports these goals.

But the Commission is equally convinced that a fresh approach to academic regulation is required — on the part of government at all levels. This Commission received a lot of testimony about the impact of the regulatory environment on college costs. Academic institutions handling small amounts of toxic substances, for example, are subject to the same regulations as manufacturing enterprises handling the same materials by the ton. Prohibitions against mandatory retirement ages were imposed on academic institutions in recent years (after several decades in which colleges and universities had been legislatively exempt from them) without considering the implications of the change on tenure or maintaining faculty vitality. And regulations regarding such issues as student privacy, the right of students to examine their records, and the incidence of crime on campus are redundant and repetitive.

New approaches need to be developed to ensure public accountability in ways that are less costly and more easily manageable. The Commission believes it is time to replace the current command-and-control approach to academic regulation with an approach that emphasizes performance and accommodates the type and volume of regulation to institutional history, size, and need.

To deal with these issues, the Commission presents nine implementing recommendations

Implementing Recommendations:

1. The Commission recommends the repeal of recently-enacted statutory provisions (from the Tax-payer Relief Act of 1997) requiring that academic institutions provide the Internal Revenue Service with personal financial information on enrolled students and their parents. The Commission believes that the reporting burden this creates for institutions has the potential to add major administrative costs to an institution's budget. While acknowledging the need to ensure reasonable taxpayer compliance

with IRS provisions, Congress should work with the appropriate representatives of the higher education community to resolve this issue.

2. The Commission recommends that Congress fund a project by the National Research Council, or other appropriate Federal agency, to develop standards in environmental, health, and safety areas to provide for differential regulation of industrial facilities, on the one hand, and research and teaching laboratories and facilities, on the other. The report should make specific recommendations for statutory and regulatory changes that are needed to develop such a differential approach.

3. The Commission recommends that, where possible, statutes require agencies to adopt performance-based models for monitoring compliance rather than command-and-control regulations that prescribe specific approaches. Likewise, statutes should avoid command-and-control language and move toward performance-based requirements.

4. The Commission recommends that state and county governments undertake a thorough examination of the regulatory requirements they have imposed on academic institutions, particularly those that go beyond or differ from Federal requirements. The purpose would be to determine the cost implications of these requirements and whether their benefits justify the costs they impose. Those deemed to be overly burdensome should be repealed.

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5. The Commission recommends that, as Congress and the Executive Branch examine issues related to the electronic production of information, colleges and universities be included in the discussions. As both producers and consumers of electronic information, academic institutions are in a unique central position to provide advice on the complex intellectual property issues involved in this area.

6. The Commission recommends that Congress enact a clarification to the Age Discrimination in Employment Act to assure that institutions offering defined-contribution retirement programs are able to offer early retirement incentives to tenured faculty members. The Commission endorses pending Senate Bill 153, which would accomplish this purpose.

7. The Commission recommends that the Higher Education Act and accompanying regulations be rewritten to consolidate provisions related to the mandated disclosure of information to students and employees under legislation such as the Student Right to Know and Campus Crime and Security Acts.

8. The Commission recommends a change in the refund law and implementing regulations to permit institutions of higher education to require students withdrawing from programs to sign a withdrawal form establishing a firm date of withdrawal for refund purposes.

9. The Commission recommends Congress stipulate that institutions with a demonstrated history of sound financial operations and capable administration be deemed "fiscally responsible and administratively capable" of meeting the eligibility requirements under the Higher Education Act. Evidence of such a sound operation could include a showing that the institution is a public institution (i.e., state controlled); that it has been in continuous existence since November 8, 1965 (the date of enactment of the Higher Education Act); or that is has participated successfully in Title IV programs for ten years or longer. Congress and the U.S. Department of Education might consider adopting the principles of the Federal Trade Commission's successful voluntary compliance programs.

IV. Rethink Accreditation

THE COMMISSION RECOMMENDS *that the academic community develop well-coordinated, efficient accrediting processes that relate institutional productivity to effectiveness in improving student learning.*

Accreditation is an honored and essential part of higher education. It assures the education community and the public, as well as funding agencies, that the institutions they are attending or supporting merit their confidence. In addition, it provides a useful tool for institutional self-study and accountability that would be inappropriate to government.

Accreditation strives to assure educational quality and institutional integrity. Basic to the accreditation process are periodic self-studies that evaluate an institution or program in light of publicly-stated objectives — and peer evaluation of those self-studies by a visiting team of academic colleagues. Accreditation seeks not only to judge and assure quality and integrity, but to promote improvement through continuous self-study and evaluation. Regional associations accredit an institution as a whole, while specialized accrediting groups accredit specific educational programs within an institution.

The Commission recognizes and encourages the movement underway at all six regional accrediting associations to focus more on assessing student achievement. Accreditation bodies — both regional and specialized — have been inclined to emphasize traditional resource measures as proxies for quality. Such traditional measures are often difficult to link to demonstrated student achievement. Specialized or professional accreditation has, for the most part, continued to focus on resource measures in making judgments about quality. In fact, to many campus observers, they appear often to be acting more in the economic interest of the professions they represent than in the interest of assuring student achievement.

Moreover, specialized accreditation has, in the eyes of many, taken on a life of its own. It has become too complicated, occurs too often, and makes the case for additional resources to support programs of interest to them without regard to the impact on the welfare of the entire institution.

Today, some 60 specialized accrediting agencies oversee more than 100 different academic programs — ranging from architecture, business, and engineering to journalism, law, medicine, and far beyond. The time-consuming self-study procedures involved with specialized accreditation, the focus on additional resources without regard to their connection to student learning or the welfare of the larger institution, and the expensive duplication involved with different entities, increase red tape and drive up costs.

The Commission believes a great deal of improvement is possible in developing both accrediting standards and evaluation review processes that focus directly on student learning. It believes accreditation should encourage a greater focus at both the program and institutional level on productivity and efficiency. To address these issues, the Commission presents seven implementing recommendations:

Implementing Recommendations:

1. The Commission recommends that accrediting associations reshape existing standards and review processes to include a greater emphasis on measures of effectiveness — especially student achievement — and less emphasis on resources.

2. The Commission also urges accrediting bodies and their member institutions to devise standards and review processes that support greater institutional productivity, efficiency, and cost constraint.

3. The Commission recommends that, with standards and review processes focused more on output and cost efficiency, institutional self-study processes should concentrate on efficiency, productivity, the wise use of resources, and the extent to which the institution is meeting the educational quality goals defined in its mission.

4. The Commission recommends that the Council on Higher Education Accreditation and its member accrediting agencies give high priority to developing a system to coordinate activities (including self-studies and visits) between regional, national, and specialized accreditors in order to minimize costs and recognize the primacy of regional, institution-wide accreditation.

5. The Commission also urges Congress to consider changes in the Secretary of Education's criteria for institutional recognition to encourage voluntary coordination between institutional and specialized accreditors.

6. The Commission recommends that accrediting agencies develop training programs for staff and visiting review-team members that build greater understanding of cost containment and the skills to assist institutions in examining the relationships between and among student achievement, accrediting standards, and costs.

7. Finally, the Commission urges accrediting agencies to emphasize to their member institutions that concentrating on results is not intended to create a single set of standards for higher education but to indicate the importance of performance as a measure of accountability.

V. Enhance and Simplify Federal Student Aid

THE COMMISSION RECOMMENDS *that Congress continue the existing student aid programs and simplify and improve the financial aid delivery system.*

Despite the complexity of the current Federal student-aid system of grants, loans, campus-based aid, and tax benefits, it provides crucial support to students from widely varying personal and financial circumstances. There is value in preserving the current mix of programs that enhance student choice among a variety of institutions. Nevertheless, the manner in which that aid is delivered confuses students and families, and, despite its variety, the aid system struggles to serve the diverse needs of the many different types of students now attending postsecondary institutions. Meanwhile, student aid regulations from the U.S. Department of Education are so extensive, internally inconsistent, and excessive that it is almost impossible for any college, university or other financial aid provider in the country to be sure it is ever in full compliance.

To maintain a strong Federal financial aid system that will improve access to higher education and make it more affordable to students and families, the Commission makes eight implementing recommendations.

Implementing Recommendations:

1. The Commission recommends that Congress continue the existing Federal grant, loan, and campus-based financial aid programs and where possible, strengthen them and provide additional resources.
2. The Commission recommends that Congress simplify and improve the student financial-aid delivery system. This system should have as its primary goals improving the level of service to students and program participants; reducing the costs of administering Federal student-aid programs; increasing accountability; and providing greater flexibility in managing the functions and operations of the grant, loan, and campus-based aid programs.
3. As part of the effort to streamline aid, the Commission supports involvement of the U.S. Department of Education in efforts to develop Electronic Data Interchange (EDI) standards and other experiments in the use of modern technologies for information sharing among institutions.
4. The Commission recommends that Congress monitor the effectiveness of the new higher education and lifelong-learning tax provisions to determine what effect they have on access, the nature of student financial assistance, and institutional decisions about awards of institutional aid and campus-based financial aid.

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5. The Commission recommends that Congress investigate the feasibility of broadening eligibility requirements for Federal student aid to include students attending less than part-time ~~part-time students~~. Federal aid should also become more flexible to meet a variety of student circumstances, including accelerated degree completion and year-round eligibility for part-time students and lifelong learners.

amended

6. The Commission recommends that the Secretary of Education be required to review and simplify the Department's financial aid regulations, procedures, and forms, especially forms that families must complete to apply for financial aid. Institutional compliance with regulations and procedures is now extraordinarily difficult and expensive because of the inconsistencies and redundancies in statutes and regulations.

7. The Commission recommends that the U.S. Department of Education consider expanding and strengthening the "case management" approach to eligibility and compliance issues associated with the Higher Education Act. This will allow the Department and institutions of higher education to consider simultaneously issues like institutional audit, program review, and re-certification, thereby allowing both to better coordinate the use of resources and potentially reduce costs.

8. The Commission recommends that Congress require the Program Review branch of the U.S. Department of Education to make available to every institution certified for Title IV participation, a complete, non-redacted copy of its review guidelines and procedures. The Higher Education Act should also be amended to permit institutions to cure inadvertent errors without penalty.

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A WORD TO STUDENTS AND FAMILIES

Finally, this Commission wants to speak directly to students and their families. We realize that decisions about selecting a college and paying for a college education present tough choices to American families. Our system of higher education is big, diverse, and full of opportunity, but making good decisions about college requires information and preparation. Early in the high school years, students and their families need to be asking questions about what they value and want the most from higher education. What type of school are you looking for? What is most important to you? Who has the information you need and where can you find it?

Selecting the right college takes work and the selection process must begin with the family's own assessment of what it wants. Parents and students need to remember that "more expensive" does not always mean "better." And, just because a school ranks high on a "reputational" survey, does not mean your son or daughter will be happy there.

Beyond that, preparation for college starts with families and students working together on the academic preparation necessary for a successful college experience. The first semester of the senior year is too late to begin laying this foundation. Families and students must begin with a solid foundation in elementary school. The next step is taken when they begin to plan for a rigorous course of study in high school, preferably one that involves four years of college-preparatory English and mathematics, and three years each of science, history and social studies, and foreign language. Once the program is defined, success depends on students really concentrating on their schoolwork and getting the support they need from family and teachers.

The members of this Commission also understand the anxiety involved when families face the prospect of paying for a college education. We do not dismiss it; in no way do we minimize it. On the contrary, all the recommendations in this document were developed with one goal in mind: to keep open the door of higher education by maintaining access at prices students and families can afford.

But institutions, governments, and the philanthropic and higher education communities can only do so much. Students and families have a responsibility to do their part as well. Because a major beneficiary of a college education is the individual involved, those with a genuine commitment to their future rightfully shoulder part of the load.

The weight of that load can be substantially lessened with careful financial planning. Families obviously need better information in order to plan well; this Commission has laid out an action agenda to provide much of the needed information. A number of states offer widely-publicized tuition pre-payment plans, and financial institutions are eager to encourage regular savings and investment for higher education. Moreover, the 1997 budget agreement incorporated many attractive new tax features to encourage parents to lay aside funds for their children's' education — including permission to establish tax-deferred educational accounts and to withdraw IRA funds for educational purposes. Combined with the widespread availability of grants and loans, the establishment of new Hope Scholarships, and provisions for tax credits for upperclassmen and women. these new provisions promise to bring a baccalaureate education within the grasp of practically everyone.

Most families need to become better informed about these possibilities, and those with the financial means should make an effort to set aside something for their children's future. The Commission encourages them to do so. confident that higher education is not just an expense but also an investment. The long-term financial return on the investment far exceeds the price students and families pay.

Next Steps: Putting it All Together

Those, then, are the Commission's recommendations. They constitute a framework of shared responsibility to control institutional costs, improve market information and public accountability, deregulate higher education, redesign accreditation, and enhance and simplify Federal financial aid.

Developing recommendations is easier than implementing them. Reports do not implement themselves, but must be put into practice by policymakers, members of the academic community, and citizens. Unfortunately, most reports of this nature rest unread on bookshelves. If that becomes the fate of this document and its recommendations, financial support for higher education could erode and others may step in to impose their own regulatory solutions.

The first step to implementing these recommendations is really in the nature of a plea. Everyone must shoulder his or her share of the burden of improving the situation described herein. If academic leaders, policymakers, and the general public satisfy themselves by blaming others, the situation will not change. All of us together must rise above polemics. We must avoid oversimplification. We believe it is time for straight talk about college costs and prices. To maintain access to higher education at a reasonable price, everyone will have to do more, make sacrifices, and work harder. There is ample work ahead for everyone.

The second step is to move forward with the recommendations outlined above. The Commission's charge from Congress was really quite simple: develop a set of recommendations to help keep college education affordable in the United States. No report can guarantee that result. But the steps outlined in this one point the nation, its educational leaders, its citizens, and its public officials in the right direction.

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Appendices

APPENDIX A: THE UNFINISHED AGENDA

Colleges and universities are complex institutions serving millions of students. In the relatively short period of time since the establishment of the National Commission on the Cost of Higher Education, numerous issues have been identified that could contribute to rising college tuitions. Time, as well as the availability of data, did not allow for the thorough review of all of these issues.

- **Graduate Education.** How has the price of graduate education changed over time? What are the relative costs of graduate education as compared to undergraduate education? How can we distinguish these costs? Are undergraduate tuitions paying for graduate programs? Is the time to obtain a Ph.D. increasing?

- **Part-time Students.** How much do part-time students pay to attend a postsecondary institution? What is their price of attendance? How much and what types of financial aid do they receive? How much does it cost institutions to educate part-time students? Do part-time students need special types of services that differ from those of full-time students?

- **Nontraditional Students.** (Often considered to be students over the age of 22 who do not necessarily attend full-time: part-time students can be subsumed under nontraditional students). What types of financial aid do nontraditional students receive? What types of additional supports do they need?

- **Faculty Workload.** How do faculty spend their time? How can we improve upon current methods of obtaining data on faculty work? How much are they asked to teach? How frequently are faculty able to substitute activities for actual classroom teaching? Are there more efficient ways to teach?

- **Persons Who Do not Attend.** Why do some high school graduates not pursue a college education? To what extent do financial concerns keep persons from enrolling?

- **Proprietary Schools.** How much do proprietary students pay to attend their institutions? What does it cost a proprietary school to educate students? How much and what types of financial aid do proprietary school students receive? Has the availability of Federal aid, both loans and grants, influenced tuition growth in proprietary schools?

- **Costs and Quality.** To what extent are changes in higher education costs related to changes in the quality of higher education? How are higher education products affected by changes in costs? How can quality be improved and costs reduced?

- **Technology.** How can advances in technology change the delivery of higher education? How can technology help colleges and universities to reduce their costs?

- **Saving to Pay for College.** How can students and their families save more efficiently to pay for college? What types of incentives might encourage families to save?

- **Higher Education and the Business Community.** How can businesses become more involved to help reduce some of the costs of higher education? To what extent are businesses currently providing tuition benefits for employees?

- **Remedial Education.** What does it cost colleges and universities to offer remedial education? How can higher education work with elementary and secondary schools to ensure that students are better prepared for college work?

- **Tuition Remission.** Does offering faculty tuition remission for family members drive institutional costs up?

- **Information Needs.** What kinds of information and publications would assist parents and students to make informed decisions about attending college?

APPENDIX B: TECHNICAL NOTE

Most of the data contained in this report were previously published elsewhere. The reader should consult the original sources for further details concerning cited data. Several of the tables do contain original tabulations of recent college cost and price trends (Issue 1). This technical note provides information concerning how these figures were derived. It describes: the data sources used to produce these estimates: the classification of students; the classification of institutions; the method used to estimate what it costs colleges and universities to provide higher education to students (cost per FTE); and the derivation of "net price" estimates. At the end of this note, several terms that are used throughout the report are defined.

Data Sources

Multiple years of two U.S. Department of Education data sources, the National Postsecondary Student Aid Study (NPSAS) and the Integrated Postsecondary Education Data System (IPEDS) were used to estimate trends in average college costs and prices. NPSAS data were used to estimate student level information (e.g., tuition and total price of attendance) and IPEDS data were used to estimate institutional level figures (e.g., enrollment and cost to institutions of providing higher education).

NPSAS data are not collected annually, but rather every three years: 1986-87, 1989-90, 1992-93, and 1995-96. The Data Analysis Systems (DAS) software and website (http://www.pedar-das.org) maintained by MPR Associates under contract with the National Center for Education Statistics (NCES) were used to generate the NPSAS based estimates.

IPEDS finance and enrollment data were combined to derive estimates of the cost of providing higher education incurred by institutions per full-time-equivalent student. Based on the ongoing work of Gordon Winston[20], information concerning how colleges and universities spend their money as reported on the IPEDS financial form was combined to reflect the fact that these institutions are multi-product entities and produce goods and services beside instruction. The capital costs associated with the value of the land, buildings, and equipment devoted to instruction are also factored into the estimate of the cost of providing higher education. (A more detailed explanation of this calculation is provided under the "Cost per Student" discussion.)

IPEDS finance data are collected every fiscal year. Finance data from fiscal years 1987, 1990, 1993, and 1996 were desired to correspond with the student level information available from the four waves of NPSAS. Final finance data are not, however, available for 1996, so data from 1995 and 1993 were used to estimate 1996 figures. The annual rate of change in the cost of providing instruction observed for each type of institution between 1993 and 1995 was assumed to remain the same through 1996. Comparing the results of this assumption with estimates derived from early release 1996 finance data revealed similar values. Enrollment data from the fall of the academic years in question were used to calculate full-time-equivalent enrollment (FTE). FTE is defined as the number of full-time students plus one third of the number of part-time students attending a given institution.

The first three years of IPEDS finance (1987, 1990, and 1993) and fall enrollment data (1986, 1989, and 1992) were acquired via the CASPAR website (http://caspar.nsf.gov). The 1995 finance and fall 1994 enrollment data were acquired through the NCES website (http://nces.ed.gov).

Classification of Students

Data presented in this report are for full-time, full-year dependent students attending a single institution only. These students are considered for financial aid reasons to be financially dependent on their parents. Parental as well as the student's own income and assets are considered in the determination of need-based financial aid. Approximately 74 percent of full-time, full-year undergraduates were classified as dependent in 1996. While part-time or part-year students comprise the majority, 62 percent, of all undergraduates, the price paid by full-time, full-year students is more readily interpreted and compared across years.

Classification of Institutions

Institutions were classified based on control, public or private not-for-profit, and level of degree offered. Trends in prices and costs are estimated separately for public four-year, private four-year, and public two-year institutions. In 1996, approximately 78 percent of all undergraduates attended a public institution: 46 percent were in two-year schools, 31 percent attended four-year schools, and the remaining 1 percent were enrolled in institutions offering programs lasting less than two years. Public institutions receive a share of current revenue from state appropriations: therefore tuition charged state residents at these schools is often considerably lower than in the private sector.

Cost per Student

As noted above, the derivation of the cost of instruction per full-time-equivalent student draws heavily from the work of Gordon Winston. Winston's work makes two conceptual improvements over past measures of institutions' cost of providing higher education. First, Winston recognizes that colleges and universities spend money in areas that are clearly related, areas that are partially related, and areas that are completely unrelated to instruction. Second, Winston accounts for the capital costs of the physical resources associated with providing higher education.

Based on Winston's method, instruction costs are the sum of: clearly instructional expenditures; a proportion of the partially related expenditures; and a proportion of the capital costs of all the physical assets used by the institution. The proportion used in these calculations reflects the share instruction holds in the overall operation of the institution. The specific formulation of the cost per student estimation is described below and summarized in Exhibit B-1.

The two IPEDS expenditure categories of instruction and student services were treated as being clearly instructional and all the expenditures in these two categories was included in the instructional cost measure. The three IPEDS expenditure categories of institutional support, academic support, and operation of the physical plant were treated as being partially related to instruction and a proportion of the value of expenditures in these categories was added to the instructional cost measure. This proportion was calculated by dividing the sum of the two clearly instructional expenditure categories (instruction and student services) by the total current fund expenditures less mandatory and non-mandatory transfers, scholarship and fellowship expenditures, and the sum of the three partially instructional expenditure categories (institutional support, academic support, and operation of the physical plant).

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EXHIBIT B-1: Annotated Formula for Cost Per Student		
	Cost =	
Clearly Instruction +	**Proportion Partially Instruction** +	**Proportion Capital Costs**
Current expenditures on: Instruction Student Services	Current expenditures on: Academic Support Institutional Support Operation of Physical Plant	Depreciation (2.5%): Replacement value of Buildings Replacement value of Equipment plus Opportunity Cost (9.12%) : Replacement value of Buildings Replacement value of Equipment Replacement value of Land
	Where proportion equals Current expenditures on instruction and student services divided by Total current fund expenditures less: current expenditures on academic support, institutional support, operation of physical plant, scholarships and fellowships, mandatory and non-mandatory transfers	
	Cost Per Student = Cost divided by full-time-equivalent enrollment	

Capital costs include both the real depreciation of physical assets and the opportunity costs associated with their use for higher education. IPEDS collects information concerning the replacement and book value of buildings and equipment used by colleges and universities. While the replacement value for land is not collected, book value for land used is. Land book value was converted to replacement or market value by multiplying land book value by 2.138. This correction of land value was based on the relationship observed by Winston and Yen (1995) between the book value and replacement value of buildings. Depreciation was assumed to be 2.5 percent and the opportunity cost was set to equal the average return over the past twenty years of 30 Year Treasury Bills, 9.12 percent. Land values were assumed not to depreciate in value. Hence, the value of all capital resources consumed in the provision of instructional services is computed as follows: 2.5 percent of (Building replacement value + Equipment replacement value) plus 9.12 percent (Building replacement value + Equipment replacement value + 2.138 x Land Book Value).

Due to a high level of missing data in the physical asset information in the IPEDS data, the data imputation techniques discussed in the appendix of Winston and Yen (1995, p.39-40) were adopted. In order to lessen the impact of outlying cases, the highest one percent of estimated values of instructional costs per full-time-equivalent student in each year were deleted from the analysis.

Net Price Calculations

The posted tuition, the "sticker price" is not paid by a substantial portion of undergraduate students due to financial aid. Roughly half of all undergraduates receive some sort of aid. Among dependent students attending a college or university full-time for the entire academic year, the group of students that tables included in Issue 1 focus on, the percentage receiving some type of financial aid is higher still, 64 percent.

Two different definitions of net price are used. In the first version of net price, only grant aid is subtracted from the total price of attendance. In the second version, all financial aid, including loan and work study earnings, is subtracted from the total price. The first definition captures the actual price paid by students and families, regardless of the mechanisms used to finance the purchase of higher education. The second captures the actual cash outlay that students and their families encounter during the year of college attendance.

To maintain a consistent measure of total price of attendance over time, certain adjustments had to be made to the student self-reported total price information available in the NPSAS data for 1987 and 1990. The 1996 NPSAS includes a revised measure of total price, a student budget variable based on the combination of student self-reports and institution provided data. A 1996 comparable version of this student budget variable was added to the 1993 NPSAS data which also contains student self-reports of total price. Using 1993 NPSAS data, which contained both measures, ratios of the revised student budget variable to student self-reports were calculated for each type of institution addressed by the report. The institution specific ratios were then applied to the self-reported total price information available in 1987 and 1990 to make these data comparable to the 1996 student budget estimates.

Definitions

Consumer price index (CPI). This price index measures the average change in the cost of a fixed market basket of goods and services purchased by consumers.

Dependent student. Students who are considered for financial aid reasons to be financially dependent on their parents. Parental as well as the individual student's income and assets are included in the calculation of the expected family contribution and thus financial aid awards.

Independent student. Students who are considered for financial aid reasons to be financially independent from their parents. Parental income and financial assets are not considered when calculating financial aid awards for independent students. Any one of the following criteria is sufficient for defining a student as independent: being 24 years of age or older by December 31 of the academic year in question; past service in the armed forces; being an orphan or ward of the court; being married; having legal dependents other than a spouse; or is a graduate or professional student.

Financial need. The difference between the institution's price of attendance and the student's expected family contribution.

Unmet need. The student's price of attendance at a specific institution less the student's expected family contribution and other financial assistance received.

Full-time-equivalent (FTE) enrollment. For institutions of higher education, enrollment of full-time students plus the full-time equivalent of part-time students. The full-time equivalent of part-time students is calculated in this report as: three part-time students are equivalent to one full-time student. Students are considered *part-time* if their total credit load is less than 75 percent of the normal full-time load.

Income

Median family income. That level of family income that divides the upper from the lower half of all families.

Personal disposable per capita income. The amount of money available per person to spend. The calculation involves subtracting all taxes, depreciation, and corporate reinvestment from the country's Gross National Product, adding transfer payments (e.g., social security payments), and dividing the result by the number of people in the population.

Regulatory Approaches

Performance-based approach. The performance-based regulatory approach fixes a standard of performance but generally leaves to the institution the choice of procedures to meet the standard.

Command and control approach. In the command and control regulatory approach, a government agency fixes both the performance standard and the procedure to meet the standard.

APPENDIX C: COMMISSIONER BIOGRAPHIES

Martin Anderson
Senior Fellow. Hoover Institution of Stanford University, Stanford. California

Martin Anderson is a Senior Fellow at the Hoover Institution of Stanford University. A former professor at Columbia University. he directed the policy research efforts of three presidential campaigns. and was the domestic and economic policy adviser to President Reagan. 1981-82.

Anderson graduated summa cum laude from Dartmouth College, and received a M.S. from the Thayer School of Engineering and the Amos Tuck School of Business. and his Ph.D. from the Massachusetts Institute of Technology. He is the author of eight books including *Impostors in the Temple: A Blueprint for Improving Higher Education in America.*

Jonathan A. Brown
President. Association of Independent California Colleges and Universities. Sacramento. California

Dr. Brown has been President of the Association of Independent California Colleges and Universities since 1991. Prior to his appointment he was Vice President of the Association. Before that, he served in a variety of political positions including work in the White House. the U.S. Senate. the House of Representatives and the California Legislature. Brown has also served on a variety of boards including the National Association of Independent Colleges and Universities: as founding Chairman of United Educators Risk Retention Group and as a member of the Economics Council for the Universidad Anahuac del Sur in Mexico City.

Brown received his A.B. (Honors) in International Relations from the University of the Pacific. He also studied at George Washington University. Catholic University and the Harvard Institute for Educational Management. He received a D.P.A. from the University of Southern California. His dissertation, on tax simplification. was nominated for dissertation of the year by the American Society of Public Administration. He has been an adjunct professor at USC and Golden Gate University and a visiting professor at Universidad Anahuac del Sur in Mexico City.

"In one sense, the Commission was created as a result of a pervasive syntactic confusion that invades any discussion of higher education. Higher education lives in an environment where an average cost of production of $20,000(COST) is sold for $6,000(PRICE). If we concentrate only on price, we will be unsuccessful in keeping higher education accessible. The balance of our recommendations try to build on the strength of the American system of higher education — one size does not fit all because we have a diverse system. Better focus on and understanding of the costs of higher education among administrators, faculty, students, families and policymakers, will assure a higher educational system that remains able to meet a diverse set of needs. but always in a cost effective manner."

Robert V. Burns
Distinguished Professor and Head of Political Science. South Dakota State University, Brookings. South Dakota

Dr. Robert Burns is Distinguished Professor and Head of Political Science at South Dakota State University in Brookings. South Dakota. He is a Commissioner with the Western Interstate Commission on Higher Education. and former Chairperson of two Governor's Committees focusing on education in the state of South Dakota. He has held teaching positions at the University of Missouri-Columbia and at the University of South Dakota.

He received his B.S. in Political Science from South Dakota State University, and his M.A. and Ph.D. in Political Science from the University of Missouri-Columbia. He is the recipient of several teaching awards. including Teacher of the Year in the College of Arts and Science three separate years, the Burlington Northern Excellence in Teaching Award in 1989, and the 1995 South Dakota Professor of the Year by the Carnegie Foundation for the

Advancement of Teaching. He is a former member and president of the Brookings. South Dakota. School Board and candidate for the state legislature. He was awarded the Bronze Star and Air Medal with Oak Leaf Cluster for his duty in Vietnam as a Captain with the United States Army.

"I am convinced that each of the eleven members of the Commission is committed to quality. affordable higher education opportunities for the adult public as a means toward individuol and community well being in our nation. The common good and not narrow selfish interests directed the work of the Commission. We were required by law to investigate eleven complex topics in American higher education including costs. prices and subsidies. If our product appears to be overly broad in focus it is because we have sought to be true to our statutory mandate. It is our hope that individuals and communities alike will benefit from our effort to make higher education even more accessible through implementation of our many recommendations."

Clare M. Cotton
President. Association of Independent Colleges and Universities in Massachusetts. Boston. Massachusetts

Clare Cotton has served as the President of the Association of Independent Colleges and Universities of Massachusetts (AICUM) since 1987. AICUM represents 55 independent colleges and universities in Massachusetts. He served as President of the Boston-Fenway Program. Inc.. a consortium of 12 non-profit educational. cultural and medical institutions from 1977-1987. Earlier he was Vice President for Government and University Relations at Boston University. Director of European Securities Publications. Inc. in London and a Special Writer for *The Wall Street Journal.*

He received his undergraduate degree from Randolph-Macon College and his masters degree in philosophy from the University of North Carolina. Chapel Hill. He has received honorary doctorate degrees from Randolph-Macon College, Wentworth Institute of Technology, Mount Ida College, Becker College and Northeastern University. He received the Dean College Cameron E. Thompson Medal and the Becker College award for Distinguished Service to Higher Education. He is a member of the Public Education Nominating Council of Massachusetts and a founding member of the Brookline (MA) Chorus.

"The Federal student aid programs. together. represent a kind of policy genius. The variety of the programs combines the Pell national grant system and the national loan systems with campus-based grant. work and loan programs. providing great flexibility in final awards to meet unforeseeable differences in student needs and changing student needs. The principle that <u>need</u> is the basis of awards under-girds these programs. Needs analysis covers the two relevant factors: the resources available to the student/family and the funding needed for the proposed educational program. Basing financial aid solely on income would limit choice and flexibility. and would tend to transform student aid into a part of the welfare system. Support for the Federal system. in my view. entails support for its basic philosophy of needs-based awards."

William D. Hansen
Executive Director. Education Finance Council. Washington. D.C.

Since 1993. Bill Hansen has been the Executive Director of the Education Finance Council (EFC) in Washington, D.C. EFC is a not-for-profit association organized to represent the common interests of state student loan secondary market organizations. Prior to joining EFC. Hansen was the Assistant Secretary of Education for Management and Budget and Chief Financial Officer: the Deputy Under Secretary of Education for Planning, Budget and Evaluation (acting); and Deputy Assistant Secretary of Education for Legislation and Congressional Affairs. He also managed the public affairs office at the U.S. Department of Commerce. directed intergovernmental and industry affairs at the U.S. Department of Energy and served as Deputy Assistant Secretary for Elementary and Secondary Education.

Governor George Allen appointed Mr. Hansen to the Virginia Commission on the Future of Public Education. He also served on the Governor's Commission on Champion Schools in Virginia. He attended Idaho State University and graduated from George Mason University with a B.S. degree in Economics. He lives with his wife and six children in McLean. Virginia.

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Walter E. Massey
President, Morehouse College, Atlanta, Georgia

In June of 1995, Dr. Walter Massey was named president of his alma mater, Morehouse College, the nation's only historically black, private, liberal arts college for men. Prior to his appointment at Morehouse, Dr. Massey was a professor of physics and Dean of the College at Brown University, Director of Argonne National Laboratory, Vice President for Research at The University of Chicago, Director of the National Science Foundation and Provost and Senior Vice President for the University of California System.

Dr. Massey received his B.A. in Physics and Mathematics from Morehouse, and his M.S. and Ph.D. in Physics from Washington University. As an expert in the fields of science and technology, Dr. Massey has traveled and consulted around the world for different countries and organizations. He currently serves on the Board of Directors of Rockefeller University and three additional corporate boards. He was previously a trustee for Brown University and the MacArthur Foundation.

"I hope this report becomes a resource for policymakers as they struggle with the critical choices as to how to maintain the excellent system of American higher education. I also hope it will help families and students to prepare early on to finance a college education. We in the education community must do our part by keeping college affordable."

Barry Munitz
President and CEO, The J. Paul Getty Trust, Los Angeles, California
Former Chancellor, The California State University
Vice Chairman, National Commission on the Cost of Higher Education

During the work period of this Commission, Dr. Munitz was Chancellor and Chief Executive Officer of the California State University, a 23-campus system of state universities. He is now the President of the J. Paul Getty Trust, effective January 5, 1998. He is immediate past Chair of the American Council on Education, is a member of the Executive Committee of Los Angeles' KCET Public Television Station, has chaired the Education Round Table in California for the past five years, and is Chairman of the new National Advisory Group for the Ford Foundation-supported Millennium Project on Higher Education Costs, Pricing and Productivity.

He received a B.A. in Classics from Brooklyn College and a M.A. and Ph.D. from Princeton in Comparative Literature. After teaching at Berkeley and serving as Clark Kerr's assistant on the Carnegie Commission on the Future of Higher Education, he worked as the Academic Vice President of the University of Illinois system, as the Chancellor of the University of Houston, and as president of a Fortune 200 corporation. He has written widely on organizational theory, higher education, planning and governance.

"American higher education is the envy of the world, and an absolute requirement for social and economic success. Our colleges and universities must be strongly supported and families must plan to afford them; however, they must make themselves much easier to understand and much easier to afford. This Commission is absolutely and unanimously convinced that America's colleges and universities remain an extraordinary value; but, it is also deeply concerned that most of them obfuscate their current funding patterns and refuse to confront seriously basic strategies for reducing their instructional costs."

Frances M. Norris
Vice President for Congressional Affairs, U.S. West, Inc., Washington, D.C.

Ms. Norris was recently named Vice President of U.S. West, Inc. in Washington, D.C. She is responsible for advocacy before Congress of the company's cable, wireless and telephone strategies. Prior to joining U.S. West, Ms. Norris was the Vice President of the Dutko Group in Washington. Her career in Washington includes a multitude of positions, including Special Assistant to President Bush for Legislative Affairs. Director of Congressional Relations for the Office of National Drug Control Policy. Assistant Secretary of Education. Deputy Assistant Secretary of Education. Assistant to then House Republican Whip. Trent Lott. and Legislative Assistant to Congressman G.V. Montgomery of Mississippi.

She earned her B.S. from the University of Mississippi and her M.S.L.S. from the University of Kentucky. Ms. Norris is listed in *Who's Who in America. Who's Who of American Women. Who's Who in American Politics. Who's Who in Emerging Leaders in America. World Who's Who of Women.* and *International Who's Who of Professional and Business Women.*

Blanche M. Touhill
Chancellor. University of Missouri at St. Louis. St. Louis. Missouri

Six years ago. Dr. Blanche M. Touhill became the Chancellor of the University of Missouri at St. Louis. Prior to this, she served numerous other positions at the same university, including Interim Chancellor. Vice Chancellor for Academic Affairs. Associate Vice Chancellor for Academic Affairs. Associate Dean of Faculties. and Professor of History and Education. She has held teaching positions at three other colleges and was also a public school teacher in New York City, St. Louis, and Montgomery County. Maryland. In addition to authoring and editing several books. Dr. Touhill has written over 60 papers on topics ranging from Irish immigration to America. to the issues surrounding campus extension on urban and land grant university campuses. She has also authored numerous articles and book reviews.

Dr. Touhill received all of her degrees from Saint Louis University in St. Louis. Missouri. Her B.S. and Ph.D. are in history and her M.A. is in geography. During her career, she has been on the boards of directors of 29 different organizations. She has devoted much time to the National Association of State Universities and Land-Grant Colleges. the American Association of State Colleges and Universities. the American Council on Education and of the Urban 13 institution group. Dr. Touhill has been honored by many organizations, including a Distinguished Service Award from the Dr. Martin Luther King, Jr. State Celebration Commission and the Humanist of the Year from the James F. Hornback Ethical Society.

"I want to express my appreciation for having been selected to be a member of this Commission. Higher Education is a pathway to opportunity in our country and must provide access and quality offerings to the citizenry through its diverse types of institutions. I am pleased that the Commission favors a national gathering approach focused on the part-time students in the Higher Education system."

William E. Troutt
President. Belmont University, Nashville. Tennessee
Chairman. National Commission on the Cost of Higher Education

Dr. Troutt has been President of Belmont University in Nashville. Tennessee for the last 17 years. During his presidency. Dr. Troutt has helped Belmont increase its enrollment by 75 percent, raise the average ACT score of its incoming students by eight points. and add to the geographic diversity of the student body. He has raised more than $100 million for the endowment and the university gained national recognition when it won the 1995 Innovative Management Achievement Award from the National Association of College and University Business Officers.

He received his B.A. in Philosophy and Religion from Union University, a M.A. in Higher Education and Philosophy from the University of Louisville and a Ph.D. from Vanderbilt University in Higher Education. After working as an admission officer at Union University, he worked as the Assistant Director of the Tennessee Higher Education Commission. as a Senior Associate with McManis Associates of Washington, DC, and then as Executive Vice President at Belmont, prior to becoming President. He was recently named one of the Nation's Most Effective College Presidents by an Exxon Foundation Study and as one of Nashville's Most Influential Citizens.

"Can higher education think about achieving student learning in ways other than faculty meeting with groups of students at regularly scheduled times and places? Can higher education organize itself differently and ultimately use technology both to improve quality and lower costs? Can higher education shift its focus from teaching to learning and from time served to results? The long-term challenge of managing college costs will require creative new thinking about teaching and learning."

George W. Waldner
President. York College of Pennsylvania. York. Pennsylvania

Dr. George Waldner has been the President of York College since 1991. leading the institution to attain national recognition for achieving both quality and efficiency in higher education. In addition. he serves as the President of the Board of Directors of the Historical Society of York County and is a member of the board of directors of the Byrnes Health Education Center and South George Street Community Partnership. an urban re-development agency. Dr. Waldner has been active in regional accreditation, serving on evaluation committees for both the Southern Association of Colleges and Schools and the Middle States Association.

Prior to becoming President at York. Dr. Waldner was the Vice President for Academic Affairs at Wilkes University and Provost and Faculty Member at Ogelthorpe University. where he was honored twice as the outstanding classroom teacher. He is the author of numerous publications and papers related to the economics and politics of Japan as well as the economics of higher education. He received his A.B. from Cornell University. his M.A. and Ph.D. from Princeton University. and is a certificate recipient from the Inter-University Center for Japanese Studies in Advanced Written and Spoken Japanese Language.

"Colleges and universities must begin to pursue efficiency with as much fervor as they pursue quality. With creativity and commitment. each institution can find ways to enhance both excellence and value in higher edacation."

APPENDIX D: COMMISSION MEETINGS

COMMISSION MEETING
August 11, 1997
Washington, DC

Presentation:
The Honorable Howard P. McKeon, Member, United States Congress, California

COMMISSION MEETING
September 7-8, 1997
Washington, DC

Presentations:
The Honorable Howard P. McKeon, Member, United States Congress, California
Dr. William F. Massy, The National Center for Postsecondary Improvement, Stanford University, The Jackson Hole Higher Education Group, Inc.

COMMISSION MEETING
October 16, 1997
Hoover Institution, Stanford University, Palo Alto, California

Presentation:
Mr. Gerhard Casper, President, Stanford University

Panel of Presidents
Dr. James L. Doti, President, Chapman University
Dr. Stephen C. Morgan, President, University of LaVerne
Dr. Leo E. Chavez, Chancellor, Foothill-DeAnza Community College District
Dr. Robert L. Caret, President, San Jose State University

PUBLIC HEARING
October 27, 1997
Washington, DC

Presentations:
American Association of Community Colleges
Dr. David R. Pierce, President
Dr. Robert C. Messina, President, Burlington County College

Association of Jesuit Colleges and Universities
Father James C. Carter, S.J., Chancellor, Loyola University New Orleans

Modern Language Association of America
Dr. Herbert S. Lindenberger, President

Urban 13 Institutions
Dr. Gerald L. Bepko, Chancellor, Indiana University-Purdue University
Dr. Patrick M. Rooney, Special Assistant to the Vice President and Associate Professor of Economics, Indiana University-Purdue University
Dr. Gregory M. St. L. O'Brien, Chancellor, University of New Orleans

Association of American Universities
Dr. Cornelius J. Pings, President

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State Higher Education Executive Officers
Mr. J. Michael Mullen, Interim Director, State Council of Higher Education of Virginia

United States Congress
The Honorable Michael N. Castle, Delaware

American Association of University Professors
Dr. James E. Perly, President

National Association of College and University Business Officers
Mr. James E. Morley, Jr., President

Committee for Economic Development
Mr. Charles M. Kolb, President

COMMISSION MEETING
November 7, 1997
Northeastern University, Boston, Massachusetts

Presentations:
Dr. Gordon C. Winston, Orrin Sage Professor of Political Economy, Williams College
Dr. Richard M. Freeland, President, Northeastern University
Dr. Neil L. Rudenstine, President, Harvard University

Panel of Faculty Members
Dr. Phyllis W. Barrett, Professor of English, Holyoke Community College
Dr. Robert L. Silbey, Professor of Chemistry, Class of '42 Professor, Massachusetts Institute of Technology
Dr. Jeffrey L. Roberts, Professor of English, Worcester State College
Dr. Raymond J. Starr, Theodora Stone Sutton Professor of Classics, Wellesley College

DISCUSSION GROUP WITH PARENTS
November 10, 1997
Hume Fogg Magnet School
Nashville, Tennessee

COMMISSION MEETING
November 17-18, 1997
Belmont University, Nashville, Tennessee

Presentations:
Dr. Terry W. Hartle, Senior Vice President for Government and Public Affairs, American Council on Education
Mr. Arthur M. Hauptman, Consultant, Arlington, Virginia

COMMISSION MEETING
December 4, 1997
Washington, DC

REPORT RELEASE
January 21, 1998
Washington, DC

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APPENDIX E: EXPERT PAPERS

Are Postsecondary Education and Training Worth It? How Do You Know?
Educational Testing Service
Anthony P. Carnevale
Donna M. Desrochers
Marlies A. Dunson
Richard A. Fry
Neal C. Johnson

Federal Student Aid and the Growth in College Costs and Tuition: Examining the Relationship
Arthur M. Hauptman
Cathy Krop

Remarks on Restructuring Higher Education
William F. Massy

Student Aid & Tuition: Toward a Causal Analysis
The American Institutes for Research
Roy J. Pearson
Stéphane Baldi

The Real Cost of Higher Education. Who Should Pay and How?
Alan Reynolds

College Costs: Subsidies. Intuition and Policy
Gordon C. Winston

APPENDIX F: CONSULTANTS

American Institutes for Research
- Rita J. Kirshstein, Project Director
- Amy Smith O'Malley
- Roy J. Pearson
- David A. Rhodes

James Harvey and Associates
- James Harvey
- Roger M. Williams

The Ingram Group
- Lewis Lavine
- Joe Hall
- Chris Jewell

The Institute for Higher Education Policy
- Jane V. Wellman

Levine and Associates, Inc.
- John Vance

ENDNOTES

[1] U.S. Department of Education. *Digest of Education Statistics 1996*. Table 309.
[2] James Harvey and John Immerwahr. *Goodwill and Growing Worry: Public Perceptions of Higher Education*. (Washington: American Council on Education. 1994.)
[3] These years are examined because our basic financial aid data come from the National Postsecondary Student Aid Study, which was conducted in 1987. 1990. 1993, and 1997.
[4] Arthur M. Hauptman and Cathy Krop. *Federal Student Aid and the Growth in College Costs and Tuition: Examining the Relationship*. (Paper prepared for the National Commission on the Cost of Higher Education.)
[5] Alan Reynolds. *The Real Cost of Higher Education. Who Should Pay and How?* (Paper prepared for the National Commission on the Cost of Higher Education.)
[6] U.S. Department of Education. *Digest of Education Statistics*. 1996.
[7] Board of Trustees Report. California State University, January 24-25, 1995.
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[10] U.S. Department of Education. *Digest of Education Statistics*, 1996.
[11] (U.S. Department of Education. National Center for Education Statistics. *1993 National Study of Postsecondary Faculty [NSOPF-93] Instructional Faculty and Staff in Higher Education Institutions: Fall 1987 and Fall 1992.)*
[12] Kenneth C. Green. *The National Survey of Information Technology in Higher Education*. October 1997.
[13] Kenneth C. Green. *The National Survey*. October 1997.
[14] Testimony of Gerhard Casper. President, Stanford University. *The Cost of Higher Education: A Discussion with Commission Members*. October 16. 1997.
[15] National Commission on the Cost of Higher Education. *Straight Talk about College Costs and Prices*. (American Institutes for Research. December 1997. Issue 3. no page).
[16] National Commission on the Cost of Higher Education. *Straight Talk about College Costs and Prices*. (American Institutes for Research. December 1997. Issue 5. no page).
[17] National Commission on the Cost of Higher Education. *Straight Talk about College Costs and Prices*. (American Institutes for Research. December 1997. Issue 6. no page).
[18] National Commission on the Cost of Higher Education. *Straight Talk about College Costs and Prices*. (American Institutes for Research. December 1997. Issue 7. no page).
[19] See National Commission on the Cost of Higher Education. *Straight Talk about College Costs and Prices*. (American Institutes for Research. December 1997. Issue 2. no page).
[20] Primarily. on Williams Project Discussion Paper (DP)-32. "Costs. Prices. Subsidies. and Aid in U.S. Higher Education." July. 1995. written with Ivan C. Yen.

Senator FAIRCLOTH. We will take a short recess and begin again in about 10 minutes. Thank you.

[Recess.]

Senator FAIRCLOTH. The Committee will come to order and we will begin with Mr. Robert Karr.

STATEMENT OF ROB KARR, VICE-PRESIDENT, GOVERNMENT AND MEMBER RELATIONS, ILLINOIS RETAIL MERCHANTS ASSOCIATION, CHICAGO, ILLINOIS

Mr. KARR. Senator Faircloth, thank you for the opportunity to appear before you this morning on behalf of S. 2490, the College Costs Savings Act. My name is Rob Karr and I am vice-president of Government and Member Relations for the Illinois Retail Merchants Association. We represent about 23,000 member stores of all lines and types of merchandise in Illinois, including university bookstores, convenience stores, laundry, quick service restaurants, and restaurants that are in and around university campuses in Illinois.

Illinois has a longstanding experience with this issue. We are one of the few States that has an act on the books that has attempted to dissuade universities from their anti-competitive practices. What underpins this whole issue as it is contained in S. 2490 is equal access to the student marketplace, and through equal access providing a competitive marketplace which benefits the students and consumers. In the simplest terms, the benefits of competition are taught in economics 101 but not applied in the on-campus management of today's universities.

Illinois first established its University Retail Sales Act in 1984 in response to some universities which were attempting to monopolize computer sales on their campuses. They were using their taxpayer-provided superior retail sales location advantage to negotiate discounts with computer manufacturers, discounts that were simply unavailable to anyone who did not have the location on campus or the access to financial aid that the on-campus entities had. So the Act was established in 1984 to address that uncompetitive practice.

In 1989, the Act was amended again to require universities to offer the same access to credit operations to off-campus retailers that on-campus retailers were enjoying at the time. On-campus stores were extending their own credit through the university's financial offices. Therefore, an on-campus store could not offer university-authorized or administered credit unless that credit was extended through an independent credit organization, such as Visa, Master Card, American Express, et cetera, and available to all competing merchants.

But the universities found yet another way to attempt to get around that. In 1995, we had to amend Illinois' Act again, and this was as a result of a debit card program instituted by the University of Illinois that was also in differing stages of implementation at other State universities in Illinois. Students were allowed to debit their purchases to their student ID. Those debits were then deducted from their university-administered account. The catch was that the students could only make their purchases and utilize the convenience of this debit program at the university-owned and operated or leased stores, not only including the bookstores, but the restaurants, convenience stores that were on campus, and the laundries.

IRMA initiated its amendments in 1995 to attempt to address that issue, as well. But despite repeated amendments to the Illinois law and what IRMA would see as tightening of the Illinois law, it has not always deterred taxpayer-supported universities from attempting to establish a monopoly-based economy on campus, to the detriment, we believe, of their student consumer populations and certainly to the detriment of the entire merchant community.

Recently, it would appear that some universities, at least in Illinois, are willing to go so far as to completely ignore the law. Earlier this summer, it was brought to IRMA's attention that Southern Illinois University was looking to implement a debit card program disguised as and called a gift certificate program. IRMA immediately contacted Southern Illinois University, and upon their own internal investigation, it was discovered that university personnel in the finance office were looking to implement the program. Thankfully, that program has now been shelved. However, had it not been for the early warning we received, it was quite possible that a completely illegal program would have been implemented.

That very thing has happened at Northern Illinois University this year. Northern Illinois University, despite having been a party to the 1984, 1989, and 1995 negotiations which produced not only the original Act but the amendments that followed, and therefore being fully aware of the law, proceeded this year to ignore the law and implement a debit card program called "Husky Bucks", which seems to intentionally exclude off-campus——

Senator FAIRCLOTH. Called what?

Mr. KARR. Husky Bucks. Northern Illinois Huskies is their mascot, so they are called Husky Bucks. The card is only good at the student center and in the residential halls. Northern Illinois even advertised this program and urged students to stay on campus to do their shopping. At first, Northern Illinois University denied the program was functioning. Then they suggested that it was functioning but it was being rolled out on a limited basis to laundry and food locations only, supposedly to gain experience in how to handle this type of program. This, if not a violation of the Illinois law, is clearly outside of the spirit of previous negotiations.

Finally, Northern Illinois University claimed they sent invitations to participate to everyone, but the cost was nearly $5,000 to anyone choosing to participate, well above the cost of similar programs at other State-run universities, and it required 8 weeks to install. The significance of this, of course, is that the on-campus locations of Northern Illinois University had theirs installed over the summer. Most student spending takes place in the first couple weeks of the first semester, so they were able to instill in the student consumers shopping patterns and essentially monopolize the market.

What was sought under the Illinois law and was being asked for here in S. 2490 is simply defined as fairness. If an institution of higher learning wishes to enact a debit or credit card program, every retailer in the market area should be given an equal opportunity to participate and on-campus retailers should have to bear the same costs as off-campus retailers who choose to participate. If off-campus retailers choose not to participate, that is their choice, but the offering should be made.

It is IRMA's opinion that the winners will be the student consumer, his or her family, and equally important, the private entrepreneur-operated businesses around college campuses.

Finally, let me answer the question that frames this hearing today, at least from the Illinois perspective. "Can Small Businesses Compete With Campus Bookstores?" As we have seen in Illinois, if given equal access, they can and do, and they not only compete, they thrive. I am certain that the same is true in Washington as it is in Springfield, Illinois. There are seldom opportunities to support an initiative that positively impacts the taxpayer, student consumer, and higher education without costing more money.

Passage of S. 2490 would ensure that no matter where a student attends college, their money and any taxpayer-provided aid moneys they receive can be maximized through a competitive market. It would be superior to the existing Illinois law and it would have substantial and immediate financial impact on any university or college attempting to circumvent the law.

Senator Faircloth, thank you again for your time and attention this morning. Your consideration of this much-needed legislation is greatly appreciated, certainly on behalf of Illinois retail merchants and most especially upon the behalf of our members. And if I might add in closing, while we are very supportive of what you have laid before us, we would love to see food services delineated as goods and services as consideration of this bill takes place in the future.

Senator FAIRCLOTH. Thank you.

[The prepared statement and attachments of Mr. Karr follow:]

Illinois Retail Merchants Association

IRMA

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TEL (312) 726-4600 FAX (312) 726-9570
Email:

Rob Karr, Vice-President
Government & Member Relations
Illinois Retail Merchants Association

TESTIMONY:

Chairman Bond, Honorable members of the committee: thank you for the opportunity to appear before you this morning on behalf of S. 2490 the "College Costs Savings Act".

My name is Rob Karr and I serve as Vice-President, Government & Member Relations for the Illinois Retail Merchants Association representing over 23,000 Illinois-stores. IRMA's members include every size and type of merchandise line including university book stores. It is on behalf of IRMA's university book stores members as well as convenience stores, laundries and quick service food members in near proximity of colleges and universities that I come before you today.

Illinois has fought many legislative battles over whether taxpayer-supported universities should be allowed to carve out monopolies in their student centers, residential commons, and other university-owned property. No one argues that on-campus facilities are convenient for the student or that they have the right to exist and an obligation to provide service to students. They are and they should. One can easily make the argument that on-campus retail facilities do have an advantage by virtue of their location. Location battles are not issues IRMA injects itself into so long as such locations are achieved fairly. However, advantageous location is apparently not enough for many universities. What underpins the whole issue as contained in S. 2490, is equal access to the student-marketplace and, through equal access, providing a competitive marketplace which benefits the student-consumers. In the simplest terms, the benefits of competition are taught in Economics 101 but not applied in the on-campus management of today's universities. Illinois has dealt with this issue several times.

Illinois first established the University Retail Sales Act in 1984 as a result of computer sales. Universities were selling computers at a substantial discount. Universities were using their substantial location advantage, courtesy of the taxpayers, to negotiate discounts with computer manufacturers that were not available to near-campus retailers. The Act prevented the establishment of an on-campus retail operation selling goods and services available off-campus unless off-campus merchants had the same opportunity to compete.

In 1989, the Act was amended to require universities to offer the same access to credit operations to off-campus retailers that on-campus retailers had. Therefore, an on-campus store could not offer university authorized or administered credit unless that credit was extended through an independent credit organization (i.e. Visa, MasterCard, AMEX, etc.) and available to all competing merchants.

In 1995, the Act was amended again. This amendment was enacted as the result of a debit program instituted by the University of Illinois but in differing stages of implementation at other state universities. Students were allowed to debit their purchases to their student id. Those debits deducted from a university administered account. The catch was that the students could only utilize the convenience of this debit program at the university-owned and operated bookstore. After several refusals to open the program to other interested retailers in the area, IRMA initiated an amendment and changed the title of the Act to its current title -- The University Credit and Retail Sales Act. In fairness to the University of Illinois, it should be noted that since the Act was amended in 1995, the U of I has been most accommodating to all interested retailers. Retailers suffer none of the harassment that is often found at other universities such as withholding required reading lists in order to handicap the off-campus bookstores ability to order books and fulfill student-consumer needs.

While Illinois' law was a positive step where the U of I was concerned, that is not the case at all other taxpayer-financed Illinois institutions of higher learning. Unfortunately this law has not always deterred taxpayer-supported universities from attempting to establish a monopoly-based economy on campus to the detriment of their student-consumer population and the merchants community. Recently it would appear that some universities are willing to go so far as to completely ignore the law.

Earlier this summer, it was brought to IRMA's attention that Southern Illinois University (SIU) was looking to implement a debit-card program disguised as a gift certificate program. IRMA immediately contacted SIU. Upon their own internal investigation, it was discovered the university personnel in the finance office were looking to implement the program without consulting the President. That program has now been shelved. However, had it not been for the early-warning IRMA received, it is quite possible that a completely illegal program would have been implemented. That very thing has happened at Northern Illinois University (NIU).

NIU, despite having been a party to the 1984, 1989 and 1995 negotiations which produced the University Credit and Retail Sales Act and, therefore, being fully aware of the law in Illinois, proceeded this year to ignore the law and implement a debit-card program which seems to intentionally excluded off-campus retailers. The card was only good at the student center and in the residential halls. NIU even advertised this program and urged students to stay on campus to do their shopping. A copy of the advertisement is enclosed for your convenience. At first NIU denied that this program was functioning. Then they suggested that it was functioning but was being rolled-out on a limited basis to laundry and food locations only in order to gain experience. This, if not a violation of the Illinois law, was clearly outside the spirit of previous negotiations. Finally, NIU sent invitations to participate to everyone but the cost was nearly $5,000 - well above similar programs at other state-run universities and it required eight weeks to install. Furthermore, the on-campus stores had their systems installed and operating during the first semester when students spend the most money and when shopping habits are established. It appears that NIU's intent was to establish a monopolized consumer market on-campus, utilizing taxpayer dollars in violation of state law. Which brings us to why Illinois enacted its law in the first place and why you are here today considering the legislation before you.

Monopolized markets are not good for the economy nor, most importantly, for the consumer. Monopolized markets are not responsive to consumers needs. The consumer will inevitably pay higher prices and suffer from limited choices. Everyone, including students, many of whom work long and hard over the summer to help pay for college or parents with second or third jobs to put their children through college, deserve the benefits of a competitive, free enterprise marketplace. With the skyrocketing costs of higher education, is it fair to then allow these taxpayer-financed institutions to extract even more money from the students and their families and disadvantage many taxpaying merchants by creating captive consumers in a monopolized marketplace? We think not.

Three-fourths of all student financial aid comes from the federal government. Five billion of the taxes we pay to the federal government are utilized to help provide higher educations for the next generation. If just one-percent, or $500 million is saved by requiring universities to practice the competitive economics they teach on campus, students may graduate with slightly smaller debt, parents may have slightly smaller debts, but certainly taxpayers will see their tax dollars go farther.

As economies, markets, and even governments all over the world are deregulating, should taxpayer-financed institutions of higher learning be the last bastions of anti-competitiveness? Again, we think not. It is not fair to students, their parents or the taxpayers who finance these institutions of higher learning and it is certainly not fair to the businesses around campus who pay property and income taxes to help support these institutions of higher learning.

What was sought under Illinois law and what is being asked for here in S. 2490, is simply defined as fairness: if an institution of higher learning wishes to enact debit or credit programs, every retailer in the market area should be given an equal opportunity to participate and on-campus retailers should have to bear the same costs as off-campus retailers who choose to participate. If off-campus retailers choose not to participate, that is their choice. However, they should be given the opportunity to participate on an equal footing with equal notice with their on-campus or university-owned competition. The winners will be the student-consumer, his or her family, and equally important, private entrepreneur operated businesses around college campuses.

Finally, let me answer the question that frames this hearing today: 'can small businesses compete with campus bookstores?' As we have seen in Illinois, if given equal access they can and do. And not only do they compete they thrive.

I am certain that the same is true in Washington as it is in Springfield, Illinois: there are seldom opportunities to support an initiative that positively impacts the taxpayer, students and higher education without costing more money. Passage of S. 2490 would ensure that no matter where a student attends college, their money and any taxpayer-provided aid monies they receive, can be maximized through a competitive market. S. 2490 would be superior to the existing Illinois law in that it would have substantial and immediate financial impact on any university or college attempting to circumvent the law. While the Illinois law has to some extent dissuaded universities and colleges in Illinois from engaging in practices outside the law, S. 2490 would provide the immediate and effective enforcement necessary to deter those who would seek to hold captive the student-consumer, the taxpayers, and exclude them from the economic benefits of competition.

Thank you again for your time and attention this morning. Your consideration of this much needed legislation is greatly appreciated and on behalf of the Illinois Retail Merchants Association, I would be pleased to answer any questions you may have.

ACT 115. UNIVERSITY CREDIT AND RETAIL SALES ACT

115/0.01. Short title

§ 0.01. Short title. This Act may be cited as the University Credit and Retail Sales Act.

P.A. 83-1333, § 0.01, added by P.A. 86-1324, § 1152, eff. Sept. 6, 1990. Amended by P.A. 89-407, § 5, eff. July 1, 1996.

Formerly Ill.Rev.Stat.1991, ch. 144, ¶ 251.9.

Title of Act:

An Act relating to credit and retail sales of merchandise by or on the property of State institutions of higher learning. P.A. 83-1333, approved and eff. Sept. 7, 1984. Title amended by P.A. 89-407, approved Nov. 17, 1995, eff. July 1, 1996.

115/1. Prohibition; exceptions

§ 1. Prohibition; exceptions.

(a) The governing board of a State institution of higher learning may not permit or authorize a retail store carrying any line of general merchandise to be operated by that institution or to be operated on property held or leased for the use of the institution when such an operation can reasonably be expected to be in competition with private retail merchants in the community, unless the goods sold by that store are unavailable in quantities sufficient to meet the reasonably expected student demand, are unavailable on a year round basis or were commonly sold by the institution or on such property before January 1, 1980. The governing board of a State institution of higher learning also may not permit or authorize any person to conduct a business of selling goods, services, or a combination thereof to the general public on property held or leased for the use of the institution when such an operation can reasonably be expected to be in competition with private retail merchants in the community unless such merchants have the opportunity to compete for the operation of such a business on such property. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, cooperative, or any other legal entity. This Act does not prohibit the sale by such an institution or on such property of items commonly sold by such institutions before January 1, 1980. "Commonly sold" means exclusively those lines of products sold in the regular course of business prior to January 1, 1980. This Act does not prohibit the sale of goods which are the result of technological advances since 1980 and are required for assignments or classroom activities.

(b) The governing board of a State institution of higher learning may not permit that institution or a retail store operated by that institution or operated on property held or leased for the use of the institution to make credit sales when the credit extended is the credit of the retail store or the institution itself. This subsection (b) does not prohibit the retail store from making credit sales through an independent credit organization not affiliated with the institution or the retail store, such as by means of a bank or other credit card or through the use of a debit card issued by the institution or otherwise, so long as private retail merchants in the community are afforded a reasonable opportunity to participate in such debit card sales through appropriate agreements with the institution. This subsection (b) does not prohibit the sale on credit to students receiving financial assistance by such an institution of textbooks, food, beverages, or educational items required for use in classroom activities, so long as private retail merchants in the community are afforded a reasonable opportunity to participate in such credit sales through appropriate agreements with the institution.

P.A. 83-1333, § 1, eff. Sept. 7, 1984. Amended by P.A. 86-585, § 1, eff. Jan. 1, 1990; P.A. 87-683, § 1, eff. Jan. 1, 1992; P.A. 89-407, § 5, eff. July 1, 1996.

Formerly Ill.Rev.Stat.1991, ch. 144, ¶ 252.

115/2. Enforcement—Violations

§ 2. Enforcement; violations. Whenever the Attorney General of this State has reason to believe that any person or retail store operated by a State institution of higher learning or operated on property held or leased for the use of the institution is using, has used, or is about to use any method, act or practice in violation of this Act and that proceedings would be in the public interest, he may bring an action in the name of the State against any person or retail store operated by a State institution of higher learning or operated on property held or leased for the use of the institution to restrain and prevent any violation of this Act. In the enforcement of this Act, the Attorney General may accept an assurance of discontinuance of any act or practice deemed in violation of this Act from any person or retail store operated by a State institution of higher learning or operated on property held or leased for the use of the institution engaging in, or that has engaged in, that act or practice. Failure to perform the terms of any such assurance constitutes prima facie proof of a violation of this Act.

P.A. 83-1333, § 2, added by P.A. 87-683, § 1, eff. Jan. 1, 1992. Amended by P.A. 89-407, § 5, eff. July 1, 1996.

Formerly Ill.Rev.Stat.1991, ch. 144, ¶ 253.

RETAIL
REGISTER 41 years of service to retailing
Illinois Retail Merchants Association Number 175 August 1998

* Northern Illinois University ignores law

by Vice President/Government Relations Rob Karr

Apparently, ivory towers are above the law...at least those of Northern Illinois University (NIU). In 1996, the State of Illinois negotiated the University Credit and Retail Sales Act with every State university, including NIU. Among other things, the law prevents universities from establishing exclusive credit or debit card relationships with their students for use at on-campus retailers while excluding off-campus merchants from access to these cards. The Act ensures that taxpayer dollars are not being used to unfairly compete with the private sector, allows students at these universities to shop wherever they prefer, and protects the free market. This protection of the free market, and allowing students the widest possible access to it, favors the student by holding down costs on any number of items and services from food and clothes to books and laundry. The costs of sending students to college are high enough without being held hostage to a monopolized marketplace.

For a timely example of just such a monopoly, look at NIU, which established a pre-paid debit card program called "Husky Bucks." By creating

NIU helped negotiate the very law it broke, which prohibits debit/credit arrangements that exclude off-campus merchants.

a University payment vehicle, the school is offering an easy, secure way for students to handle everyday expenses without carrying a lot of cash, and for parents to know the money is being spent on just these essentials. When IRMA inquired about the program, we were told it was in a pilot stage and was only for food establishments and laundry services. NIU further claimed that everyone--on and off campus--would be offered the same right to participate in the program at the same time. Apparently they took us for fools.

NIU has completely ignored State law. The reality is that "Husky Bucks" are only good at on-campus food service and laundry operations because the program was not initially offered to off-campus competitors. When IRMA asked for details, NIU switched gears and stated it would cost almost $5,000 for off-campus retailers to participate, and would take nearly eight weeks to establish the links to participate. Since the vast majority of student spending takes place in the first semester and student shopping patterns will be set by then, NIU's actions have served to deny its students--NIU's customers--the benefits of competition.

Without so much as a second thought, NIU has abused taxpayer monies and broken a state law it well knew existed since the University itself helped negotiate the regulation. The school's actions have brought into question the moral integrity of Illinois' state-run university system and offer further proof that the competitive marketplace must be vigilantly protected from the encroachment of those who would seek to make consumers captive and disadvantage tax-paying private retailers on and near campuses. IRMA will update you on the outcome of this egregious violation of state law as events unfold....

Senator FAIRCLOTH. Mr. Samu.

STATEMENT OF ANTHONY SAMU, PRESIDENT, UNITED STATES STUDENT ASSOCIATION, WASHINGTON, D.C.

Mr. SAMU. Mr. Chairman, thank you for inviting me to give the student perspective on affordability of bookstore textbooks. My name is Anthony Samu. I am the president of the United States Student Association. As a membership-elected official, I speak on behalf of 3.5 million students at 350 member campuses nationwide.

The primary concern of our student membership surrounds access to education. The rising cost of college and increasing levels of debt pose severe limits on accessing education today. We have seen record levels in tuition and record levels in student indebtedness, and this brings up general concerns of what direction college affordability is taking.

To give a bit of personal experience and kind of the climate on most college campuses today, there has been a development in a number of ways to ease attending classes and to get financial aid and finances together. These developments or innovations have gone through a number of stages.

One that I personally experienced was on-line registration, simplifying, making it easier for students to get into their classes.

The next one was automatic deposit, which really took financial aid and paid off the university bill and now has moved into direct deposit into personal accounts for many college students.

But now the last one is a creative new way that most colleges and universities are undertaking and that is with respect to college bookstores, but we do not believe that this was the most well-thought-out way of buying textbooks, and now this brings up our concerns.

In my own experience at a financial aid office, which was my work-study job during my 4 years at college in obtaining my undergraduate degree, for myself and many other students who worked while on campus, it developed an interesting system where we were subjected to getting to the college bookstore late, which was the on-campus bookstore, which meant, as a result, there were no used books left and the prices that we were expected to pay were pretty much at record levels.

Fortunately enough for my university—I attended the University of Colorado—I had the opportunity to go to an off-campus bookstore and seek out those more affordable used book prices or just affordable even new textbook prices. This affordability and this luxury is not being afforded to the rest of my membership and the rest of the students throughout the Nation. In different scenarios, students are being subjected to paying full price or they are paying exorbitant prices, well beyond market value.

What we have to deal with now, though, is kind of balancing innovation and affordability. We do feel it is important to—and let me just state that there is an importance of preservation of students' privacy, and as a membership-driven organization representing the students, we definitely want to preserve the utmost privacy. But in dealing with that, also, we want to open up the campus so that we can have the most affordable ways of cutting the costs for students today.

Most students really have no choice in the tuition they pay, and by Congress' initiative, that is also being taken into consideration. But dealing with textbooks, students are developing innovative and creative ways of trying to get around the high prices.

During the drop-add period, many students, as a result, are having to decide whether they can even take a class or not or take classes together. What I mean by that is what I was able to do was go to the college bookstore and priced out the textbooks, and just seeing the sheer cost of them, which, on average, is about $568 a year, it really forced me as a student on financial aid, receiving the maximum Pell grant, to decide whether I could take all those science classes or whether I could take all those humanity classes together.

A good example that I faced was deciding whether I could take chemistry, the general lecture class, and the lab together. With book prices in the neighborhood of $100 per textbook, it really decides whether a student can truly gain access to that classroom.

The other creative ways that many of my counterparts have taken is to look in their college bookstores or to look at their public libraries on their campuses and decide if they can just check out their textbook as time permits. For many students, though, this does not give them the best opportunity to really be a student while on campus.

The other ways of dealing with this is coming through buying it on credit cards or going shopping at neighboring bookstores. Especially after a college and university divides up the loan check and the money left over is enough just to pay rent or to pay just for the food, it really presents a situation where students decide, OK, it is time to decide that I cannot buy all the books for one class or I cannot buy all the supplies that I need.

So what we are asking today is that college bookstores really open up their relationship with the community, really develop a system that is mutually beneficial for both the students, the local surrounding community, and the university in and of itself. We do not believe that creation of monopolies on college campuses today is a benefit for college students.

The other thing, though, is in balancing this innovation and balancing the affordability for college students, we really need to look at the fact that, yes, with innovation, we can simplify a student's life or we can cut down on the lines. But if inevitably that student is paying $200 to $300 more each semester, that is going to result in that student not taking certain classes, not graduating on time, and not being able to really fully develop themselves as a college student.

I thank you for your attention today in this and we hope that in the future we can present more student testimony. We have set up through our membership a way of students addressing these concerns and writing letters on their own personal experience, and especially in this time, this fall time, our membership and myself and others at my office will be going onto college campuses and finding out what their latest experiences are. Thank you.

Senator FAIRCLOTH. Thank you, Mr. Samu.

[The prepared statement of Mr. Samu follows:]

Anthony Samu
President
United States Student Association

Testimony of Anthony Samu,
President, United States Student Association
Committee on Small Business
United States Senate
September 24, 1998

Mr. Chairman, thank you for inviting me to give the student perspective on the affordability of bookstore textbooks. My name is Anthony Samu and I am the President of the United States Student Association. As a membership elected official, I speak on behalf of the 3.5 million students at 350 campuses nationwide.

The primary concerns of our student membership surround access to education. The rising costs of college and the increasing levels of debt pose severe limits on access for students. The questions surrounding the affordability of education do not end with tuition, room and board. Students have to pay for an entire array of other expenses ranging from transportation to their respective schools to personal items or even printing their final papers.

Immediately when a students arrives on campus most of their loan check is absorbed through the cost of attendance. First, four percent of the check is taken by the lender in origination fees. Then, the first semester's tuition, room and board is taken along with administrative fees for processing. At this point, students have already had to pay for transportation to their respective

college or university and buy personal items. Once classes begin, students must buy their books with their much depleted financial aid funds.

After tuition and room and board, students pay their largest bills to their bookstore. That bill does not just come once a year. Every semester students pay huge amounts for books to stay competitive in their classes. According to a 1998 study done by the National Association of College Stores, each student spends $568.00 on average for textbooks to their campus bookstores with $373.18 of that money spent on text books. New textbooks are not the only expensive books. Used textbooks, which bookstores do not always have enough of and which are bought first, are also expensive. New textbooks are often the only ones left to buy for students who are waiting on their student loans to buy their books.

There are alternatives to paying for their books. One is the use of credit cards or taking out extra loans. The second involves using alternative methods of studying rather than actually buying your books.

Anthony Samu
President
United States Student Association

With the increasing cost of college and the increasing ease for students to get credit cards, credit cards are often used to buy books. Especially after a college or university divides a student's loan check, the money left over is often not enough to pay for books leaving credit cards as the only alternative. With low-paying jobs and few hours to work, students accrue more and more debt because it is so difficult for them to pay down the debt.

An alternative to credit cards is taking out other loans to cover the extra costs that students do not account for and that initial student loans do not cover. According to a 1998 General Accounting Office Report on Higher Education, "Students Have Increased Borrowing and Working to Help Pay Higher Tuitions," in 1995-96 students at public 4-year institutions borrowed on average $11,554 and students at private 4-year institutions borrowed on average $15,559.

Students also use other methods to avoid accruing more loans and credit cards in buying their books, but those methods do not actually involve buying your books. Students who can not afford to buy their books will often just use the books available in the library, thus sharing them with the rest of the college or university. Students will share books with other students again limiting their studying and thus their learning. Considering how much students, especially low-income students, work now while in college, having to share books or use the library limits when they can study even more, thus limiting when they have access to the books either in the library or shared. The last method student's use to avoid paying such high bookstore bills is simply not buying their books and hoping that going to class will be enough to compete.

Using the library, sharing books or not even buying books because textbooks are not affordable limits access to education for the lowest income students. When students consider rent and food or books, the decision is obvious. The exorbitant costs of textbooks also limits which classes students will take. Math and science classes, especially with their lab costs, often require the most expensive books. Having extra lab costs and expensive textbooks that are updated often making the used books difficult to use deter students who are stretching their means to begin with from taking those classes.

USSA is dedicated through our membership's dedication to increasing access to education. One method of increasing access to education surrounds the affordability of college. The high prices students face in the bookstore is a major limitation to that access. The high prices in the bookstore not only act as an initial deterrence as students plan their budgets, but also when lower-income students find means to use textbooks outside of actually buying them. A low-income students access to the learning process should not be limited by

Anthony Samu
President
United States Student Association

their ability to buy textbooks for their classes. Considering the amount of loan debt most students have upon leaving school, if means exist to alleviate the burden of debt on students, we wish to explore them.

Students need to see lower costs for their textbooks through whatever means necessary. Students believe in a level playing field if that competition means lower costs on their textbooks.

Thank you for giving me this opportunity to share student's concerns on the high costs of learning.

Senator FAIRCLOTH. Mr. Gray, as I understand this, now, the college issues a credit card to the student. The student borrows X dollars from the Federal Government or an agency and this goes to the college?

Mr. GRAY. That is correct, Senator Faircloth.

Senator FAIRCLOTH. And then the college issues a debit card or—it is really a debit card because they already have the money. If they do not, they issue this card in anticipation of the student getting the money and this card can be used only at a university- or college-controlled facility?

Mr. GRAY. That is exactly right, Senator Faircloth.

Senator FAIRCLOTH. Anybody can answer this that wants to, but do the colleges and universities give any reason for this other than they make more money?

Mr. KARR. If I might, Senator, they——

Senator FAIRCLOTH. I mean, they must have a euphemism.

Mr. KARR. Well, we have heard all sorts of things in our time in Illinois with why they do this. At one time, somebody went so far as to suggest it was for the safety of the students because it was unsafe to go off campus. Well, if you have ever been in Champaign, Illinois, where the University of Illinois is, the whole town is the university. It is ludicrous to suggest that.

Senator FAIRCLOTH. But they stay absolutely confined to campus?

Mr. KARR. I am sorry?

Senator FAIRCLOTH. The students are confined to the campus, never can leave?

Mr. KARR. Well, yes.

[Laughter.]

Mr. KARR. But other excuses, other terms have been used to suggest as to why. The Department of Education has been used as a cover at certain times. The Regulation E under credit privacy has been used at certain times as an excuse. They use a variety of——

Senator FAIRCLOTH. Tell me how privacy comes into it.

Mr. KARR. Tell you how privacy comes into it?

Senator FAIRCLOTH. Yes. I heard somebody, maybe Mr. Samu or somebody mentioned, to protect the privacy of the student.

Mr. GILLETTE. I mentioned that. At Iowa State University, when they talk about the privacy, they withhold student information, whether it is home addresses or on-campus addresses. Part of the reason, when we were trying to become a part of their student charge program, the university said, "Well, we cannot make you . . ."—they gave us two reasons why they would not allow an off-campus bookstore to participate in the charge program.

One was they did not want to carry credit for the store, which is understandable. We were not asking the institution to do that. We would have carried our own credit.

But the second was that, in some way, the off-campus retailer would have access to private student information, whether it was these home addresses or the on-campus addresses that the university maintains.

Senator FAIRCLOTH. Do students not own telephones and that sort of thing where their addresses are somewhat available?

Mr. GILLETTE. That is correct. That is the thing that seemed ludicrous to us at the time. And so the privacy issue, it was one that we never fully understood, frankly. I think they used that as a reason why they did not want us to participate in the program.

Senator FAIRCLOTH. The University of Iowa is where?

Mr. GILLETTE. The University of Iowa is in Iowa City and Iowa State University is in Ames, Iowa.

Senator FAIRCLOTH. Iowa City, that is the Hoover Museum?

Mr. GILLETTE. That is correct. That is correct.

Senator FAIRCLOTH. OK.

Mr. GRAY. Senator Faircloth, if I may answer that question.

Senator FAIRCLOTH. To go back to the reason we are doing this, that they do not let you use this off-campus is to protect the student from getting into big trouble getting off campus, and that would be a big problem in Iowa City, I am sure.

Mr. GILLETTE. Oh, yes. It is a very dangerous city.

[Laughter.]

Senator FAIRCLOTH. Go ahead, Mr. Gray.

Mr. GRAY. Senator Faircloth, among the other reasons that we hear from the university is that they do not have to and/or they do not want to, as far as allowing off-campus businesses to participate with the debit cards or accept vouchers from students.

Senator FAIRCLOTH. Those are two good reasons I can understand, do not want to or do not have to.

Mr. GRAY. Right.

Senator FAIRCLOTH. That maximizes the profit of the college or the university.

Mr. GRAY. Absolutely.

Mr. SAMU. Senator, one thing to just bring up about the privacy concerns, most college campuses today do sell their student enrollment lists and they sell that as a direct mailing list so that—just so that is understood. Most college campuses, they sell that to a number of marketing agencies or they sell it for direct mail solicitation. And so that is something that is kind of a practice that happens currently, and that is not something that we necessarily have a position on one way or the other.

The thing with which we do have a concern and why we brought up the privacy issue is that if, like, course enrollment of a student, what classes they were taking, where they would be at a given point in time, those are covered under the Privacy Act that are more of our concern. But when——

Senator FAIRCLOTH. Mr. Samu, say that again slower. Maybe I did not understand it.

Mr. SAMU. I am sorry. Currently—the first part or the second part of it?

Senator FAIRCLOTH. What classes they are in.

Mr. SAMU. That would be considered under the Privacy Act because of the fact that, currently, this has happened through safety concerns, of a fleeing spouse from a domestic abuse situation, where they would not want to give out that information openly of where that student would be at a given point in time on a college campus. So those are the privacy concerns we have.

But the other practice of just basic enrollment and the student being on that campus, that is already given out. It is interesting, though, that in this situation, what a university is doing is they are saying, oh, well, we are not giving it to the immediate surrounding bookstores, which really is a concern, because if they are making this as a policy, it is not truly a policy. They are doing it in hit or miss of whether it is going to benefit them, because if they sell it to the credit card company, they make money from that.

Senator FAIRCLOTH. OK. It sounds like a pretty gossamer facade. These are not kindergartens you are operating here.

Why is it a Federal issue, not a State? Why have the States not moved in on this? You know, everything winds up in Washington as a Federal issue. Why has not Iowa, Illinois, North Carolina, and where are you from, Mr. Samu?

Mr. SAMU. Colorado.

Senator FAIRCLOTH [continuing]. And Colorado moved in on it? Or is it easier to bring it here than it is to go to Raleigh now? Tell me.

Mr. GRAY. Senator Faircloth, States have tried to address this on an individual basis. Some have had success, some have not. The reason we brought it to Washington is the fiduciary role of the DOE administering those funds. Pretty much what is happening is the colleges are saying that—or the DOE is saying it is not their responsibility once the universities receive those funds.

Senator FAIRCLOTH. Who is saying it is not their responsibility?

Mr. GRAY. The Department of Education.

Senator FAIRCLOTH. Through the States?

Mr. GRAY. I am sorry?

Senator FAIRCLOTH. What Department of Education?

Mr. GRAY. The Federal Department of Education. Once it disburses the grant moneys to the States, the way they see it, as I have interpreted their role, is they have done what they are supposed to do.

Senator FAIRCLOTH. The Department of Education says once they disburse it to the universities, it is no longer their concern.

Mr. GRAY. Right. They are done—except for some regulatory and accounting duties not really relevant to this hearing.

Senator FAIRCLOTH. They are done with it?

Mr. GRAY. Correct.

Senator FAIRCLOTH. What if the university wanted to use it to open a nightclub? Would they be done with it?

Mr. GILLETTE. That is a great question. Increasingly, financial aid dollars go directly to the university and the university acts as the holding entity for those financial aid dollars.

Senator FAIRCLOTH. I mean, what I am saying is being ludicrous, but if the university wanted to waste the money, would they be done with it? Would that be the end of it, if the university has total carte blanche to spend it in any way they see fit or care?

Mr. GRAY. Senator Faircloth, let me clarify a little bit if I could, please. When I say once the DOE sends those moneys out, they are sent to the universities to the students, forwarded to the students at the universities. So, in other words, those funds are earmarked for students at the various college campuses around the country.

Senator FAIRCLOTH. Mr. Gray, let me ask you, and I direct this question to Mr. Gray because, being a North Carolinian, I am more familiar with the universities. Do all 16 campuses of the university have this same policy?

Mr. GRAY. Yes, sir.

Senator FAIRCLOTH. The policy of not allowing off-campus use of the money?

Mr. GRAY. That is correct. Currently, in North Carolina, we have four of the State universities that have debit cards that they do not allow any access by off-campus vendors, and currently, none of the off-campus vendors are allowed to accept vouchers from students who receive Federal moneys.

Senator FAIRCLOTH. I am a student at the University of North Carolina at Charlotte. I have this Pell grant money, whatever. It has gone to the university. I can buy my books for $25 apiece. I found somebody downtown that will sell me the exact book for $25. The bookstore wants $100 for the same book. Can I not go to the bursar's office of the university and say, I want $100 of my money to go buy my four books? What would they say?

Mr. GRAY. Senator Faircloth, in essence they don't do business that way. What would happen——

Senator FAIRCLOTH. What would be their reasoning?

Mr. GRAY. Because that is not the way they do it. Pretty much what happens is those funds are put into an account for the student. They will issue you a voucher and you have to shop the on-campus vendors. They will not allow you to go off-campus to purchase your materials. The Department of Education says it's voluntary for the student—but that is a joke! Students are basically duped.

Senator FAIRCLOTH. Well, there is no real reason. The other reasons you gave were nonexistent. It simply maintains a monopoly of shopping for the university and adds to the institution's profits.

Mr. GRAY. That is the way it works, Senator.

Senator FAIRCLOTH. I was surprised at the Department of Education. What did they say in their affidavit? The Department of Education says that they do not restrict but they have no authority to say anything to the various recipients of the money.

It would appear, unless there is something that I am totally missing, and I am going to try to pursue it, that there simply is a matter of having a monopoly and not having one. Anybody in business would like to have a monopoly. They are very convenient.

Would you like to say something, Mr. Karr?

Mr. KARR. If I might, just very briefly. You mentioned, Senator Faircloth, you called your nightclub example ludicrous. While it might not have happened yet, I am not sure I would characterize it as ludicrous.

Senator FAIRCLOTH. I am saying that if the Department is saying, you are taking this something holier-than-thou, we do not know anymore, we have sent it to the university and how they handle it, we do not get involved in, what if they were grossly discriminating?

Mr. KARR. Well, that is correct, and this goes to the reason I wanted to interject very quickly here, was that while the United States Department of Education—that is why we are here today. We have tried in Illinois to address this issue on our own, and to a certain extent, we have been successful. However, there are exceptions to that and I painted several where the universities have still tried to get around the State law, citing the United States Department of Education, and the United States Department of Education says the following, that they have a fiduciary responsibility to hand the money off.

While on the one hand they say, then, as Mr. Gray stated, that once we hand it off, it is up to the universities what they do with it, the universities have gone back to the Department of Education for a cover, if you will, for their attempts to establish monopolies. The United States Department of Education says that they cannot give information or allow access to off-campus merchants. They say, however, the United States Department of Education says that on-campus merchants are not affiliated for the DOE's purposes with the campus, but they allow the campus to provide information to the on-campus retailer. So they have a different standard.

Senator FAIRCLOTH. The on-campus retailer is not affiliated with the university.

Mr. KARR. Correct.

Senator FAIRCLOTH. All right. What if an on-campus retailer decided to relocate across the street, off the campus? What would happen to him then?

Mr. KARR. In many situations, I am certain that he or she might very well—I would suggest to the retailer that they reconsider moving because they are giving up a substantial location and they are removing themselves from essentially a monopoly market.

Senator FAIRCLOTH. The retailer probably pays rent to the university or to the college as a percentage of sales.

Mr. KARR. Mr. Gray might be able to handle that differently, or Mr. Gillette.

Mr. GRAY. Senator Faircloth, typically, that is how the leases are structured.

Mr. GILLETTE. At Iowa State University, the university owns and operates the on-campus store.

Senator FAIRCLOTH. There is not a lot of difference between paying a percentage and owning and operating.

Mr. GILLETTE. That is exactly right, and that store sells everything that our store does, including t-shirts and toothpaste and what have you.

Senator FAIRCLOTH. Are you asking for, in this you say bookstores, but these off-campus stores that sell other things other than we have talked about, books, but, I mean, toothpaste and notebooks, or are you asking for just books?

Mr. GILLETTE. I think there is maybe a fundamental question that universities and State governments and possibly even the Federal Government should ask about when does government enter the business sector to provide things. The administration at Iowa State University will tell you that they own and operate a university bookstore because they are filling some sort of educational need. I am not going to split hairs discussing with them what an educational need is or is not.

What we are simply asking is if a university or a government enters into a business, that they should be held to the same level that private business is, and that is—I guess, in simple terms, if the university owns a bookstore and operates a bookstore like they do at Iowa State, that that bookstore, the information that that bookstore is privy to, the programs that that bookstore is able to implement, that the off-campus retailers be allowed to do the same thing. If the on-campus university bookstore mails an advertisement to students at an address that we do not have, then we should have access to the same list.

Senator FAIRCLOTH. I thought somebody just said they sold the list.

Mr. GILLETTE. Not at Iowa State University. They will not allow us to have that list.

And there is one thing, if you do not mind, there is another very crucial part of what has happened at Iowa State over the years, and to a certain degree at the University of Iowa, where from time to time the university will withhold information, whether it is textbook lists, like you mentioned, or course materials that the university actually is the supplier of.

Professors will turn in outlines for the semester, additional readings that are not found in the textbooks that are assigned. The students will have to buy these materials just like they have to buy the textbooks. The university acts as the supplier. They compile this information and produce it. They will give it to the university-run bookstore. They will not provide it to our store or all of them to our store, which makes it a very huge competitive disadvantage to us. If a student has to buy a textbook and these course materials, chances are they are going to go to the store that offers both of them. What we are saying, the university is the supplier and they own a bookstore. That bookstore should have the same rights and so should the off-campus store.

Senator FAIRCLOTH. I have to wonder what percentage of profit, operating profit, that the bookstores provide to the average university.

Mr. GILLETTE. This is a real interesting question at Iowa State University. It is almost impossible for us to figure that out because the university is in a union building that is an on-campus facility that is held by a foundation of Iowa State. It is difficult for us to get the records on what they pay in rent.

Second, some of the funds that are brought in in revenue to the store are split between various accounts, so there is not one line item in the university budget for the university bookstore.

Senator FAIRCLOTH. If a university foundation owns the building, the university owns the foundation.

Mr. GILLETTE. That is right. As I say, it just——

Senator FAIRCLOTH. So they are routing the money around in a circle.

Mr. GILLETTE. That is exactly what they are doing, and so it is very hard for us to sit down and not have that knowledge. Now, I cannot believe that they are running a business and there is not some sort of a record of revenue and expenses for that store, but to date, we have not been able to find that.

Senator FAIRCLOTH. I can assure you, there are a lot of businesses run that do not want too many records.

Mr. GILLETTE. That is true.

Senator FAIRCLOTH. We are going to have to close the meeting. I think we have probably created more questions than we have answered here this morning. I think these monopolies, and that is what they are, are not serving beneficially the private sector nor the students nor their parents or guardians, whoever is supplying the money.

I can assure you, John and others, that I am going to pursue it and we are going to maybe have all the hearings and we are going to get some universities to come and explain their position and the real reason for doing this, which I am sure is not a monopolistic profit-generating entity on the campus. I am sure we will get another reason, and we would like for them to come and tell us.

I would like to include in the record a statement submitted by Richard C. Yount on behalf of Loupots Bookstores of Houston, Inc.

I would also like to include in the record a statement from Daniel Lieberman, founder and partner of Dynamic Student Services in Pennsylvania.

[The prepared statements of Mr. Yount and Mr. Lieberman have been included in the section entitled "Comments for the Record".]

Senator FAIRCLOTH. Thank you so much. The meeting is adjourned.

[Whereupon, at 11:27 a.m., the Committee was adjourned.]

COMMENTS FOR THE RECORD

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Re: Addition to Testimony, September 24, 1998 Hearing, Campus Area Small Business Alliance

Dear Karen:

The Department of Education ("DoE") has ultimate responsibility to act as the fiduciary of federal aid to college students. As all fiduciary duties of whatever kind, they constitute a momentous trusteeship of someone else's money. In the case of DoE, the staggering $60 Billion in taxpayer funds makes its position of trust with public money even more deserving of public scrutiny and accountability. Congress and the DoE are failing in their respective responsibilities: trusteeship by the DoE and oversight by Congress.

With skyrocketing college costs – a "college cost crisis"[1] – the integrity of the financial aid disbursement process to students – who are the SOLE beneficiaries of that aid – is vital. I have enclosed one original each of full-page ads placed in the Washington Post Weekly, August 17 and 24, 1998 highlighting the DoE's failings.

With warm regards, I remain

Most sincerely yours,

John-Paul de Bernardo

John-Paul de Bernardo, Counsel
Campus Area Small Business Alliance

Enclosures
JPde B/cg

[1] The Congressional Commission on the Cost of Higher Education, 1998 Report, "Straight Talk About College Costs and Prices," page 2.

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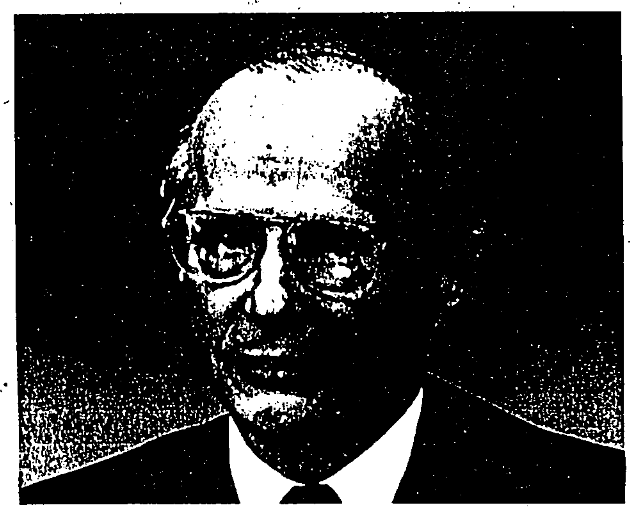

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The Department of Education is a "public trust" for over $50 BILLION annually in student aid for 9 million students. Yet, using federal financial aid money, it invites universities to monopolize the college bookstore trade and crush competition. It drives all kinds of campus-area small businesses out of business. All across America it drives up student costs and eliminates student choice. This is the Department's record. These are the facts. It's shameful. So much for a "public trust!"

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No one should be surprised that 80% of Americans think colleges are "profit-making businesses" according to a 1998 report by the American Council on Education. A 1998 Congressional Commission on the Cost of Higher Education reports that we have a "college cost and price crisis," and that colleges are not serious about reducing costs.

The U.S. Department of Education is, in part, directly responsible. It is part of the problem, not part of the solution, for millions of students – and their parents – who struggle to afford higher education. Every day the Department buttresses an EDUBUSINESS Empire overcharging millions of students, parents, small businesses, and taxpayers. The Department doles out $50 Billion annually in the name of financial aid to help needy students, but much of that largess is channeled toward special-interest, on-campus, for-profit enterprises with government-aided monopolistic power.

Lower cost off-campus bookstores and other small businesses are shut out. Competition is abolished. Student choice is eliminated. *Much* higher student costs are the result. Few benefit and many are hurt. Even a 1% savings with competition saves $500 Million! We need a Department of Education that is pro-student, not pro-profiteering. We need more book for the buck. To Congress and Education Secretary Riley, we say—"Stop ripping us off!"

SUPPORT SENATOR FAIRCLOTH
AND THE SENATE SMALL BUSINESS COMMITTEE.
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Sponsored by the Campus Area Small Business Alliance (CASBA). National Headquarters: One Twelve Tryon Plaza, Suite 1010, Charlotte, NC 28284 (704) 372-3333, FAX (704) 372-3338, E-mail: deBernardoLaw@msn.com. WEBSITE: www.thealamoii.com/CASBA_index.htm.

UNFAIR BUSINESS PRACTICES OF PENNSYLVANIA STATE OWNED UNIVERSITIES

Presented to:

Members, United States Senate
Members, United States House of Representatives
The Honorable Governor Thomas Ridge, Pennsylvania
Members, Pennsylvania House of Representatives
Members, Pennsylvania Senate
Campus Area Small Business Alliance
United States Student Association
National Federation of Independent Businesses
Pennsylvania Retailers Association

Prepared by Daniel Lieberman
U.S. citizen and Pennsylvania resident
Founder & Partner, Dynamic Student Services

September 12, 1998

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To view this document on the world wide web visit the DSS Web site
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This document represents the facts surrounding Daniel Lieberman's ventures in the textbook industry and his relations with Pennsylvania Universities. This document is a publication created by and represented by Daniel Lieberman, not by any other party or affiliation thereof. This document does not represent the legal opinions, nor any opinions of Dynamic Student Services; it's partners, or agents of. The information contained in this publication represents the accounts, beliefs, and facts as they are presented by Daniel Lieberman to the best of his recollections, knowledge and the best of his ability. The information in this publication is not intended to damage any party and is solely meant as a lobbying tool.

PREFACE

This document catalogues many of the unfair business practices that have occurred and continue to occur in Pennsylvania by some of the Commonwealth owned University's and their auxiliary service corporations. It is intended to provide readers with an insight into the lengths at which Pennsylvania Universities and Universities across the country will travel to prevent their students from walking off campus to enjoy competition, lower prices, and improved service. These activities are costing students, taxpayers, and our government hundreds of millions of dollars per year in extra costs. We urge you to read this document and to support the creation of Federal and State legislation to make the Campus Marketplace an open environment that promotes evenhanded competition and fairness for the private sector. This will lower the cost of higher education for students, families, and all taxpayers.

*This document originated in 1997 and has catalogued many events over the past two years. In June 1997, the Dynamic Student Services bookstore at Millersville University of Pennsylvania was forced out of business. We believe that the University and the non profit auxiliary corporation that it controls, Student Services Inc. are responsible for driving DSS from the Millersville University local marketplace through unfair and monopolistic business practices. Withholding of textbook order information coupled with the denial of access to students who receive financial aid enabled the University and it's nonprofit to regain it's foothold on all student business. This behavior by the University has also ensured that no competition can exist in the future. The students and the taxpayers will now pay the price. Many of the issues presented in this document were contributing factors to DSS being forced out of that marketplace, where students no longer have choices. Although the events described within are specific to Pennsylvania and Dynamic Student Services; they provide an excellent microcosm for the issues and events that continue to plague students and off campus bookstores across the entire country, affecting over 9,000,000 students, at 7000 colleges. Over 50 billion dollars of aid provided by all taxpayers is at stake. By promoting competition, our government can help students decrease the amount of funding that is necessary to subsidize their needs. A mere 1% savings in textbook and supply costs could net over 500 million dollars savings!

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Introduction and Background Information

DSS is a chain of three college textbook stores located in Southeastern Pennsylvania. These stores specialize in new and used discounted textbooks backed by a lowest price guarantee. In addition to required university course materials, all Dynamic Bookstores provide discounted school supplies as well as student oriented-services. These stores are located at West Chester University of PA (WCU), Millersville University of PA (MU), and Cheyney University of PA (CU). At WCU and MU, the Dynamic Bookstores serve as off-campus, competing, alternatives to the on-campus university bookstores. The Dynamic Bookstore at CU is a contracted, on campus bookstore.

** In June 1998 the store at Millersville University was run out of business by Millersville University and it's non profit corporation. (Sept 12 Addendum)*

On-campus bookstores that compete with DSS at MU and WCU are operated by a 501.3c non-profit company called Student Services, Incorporated. Although both on-campus stores share the same name at their respective universities, they are separate companies referred to as WCU-SSI and MU-SSI. These SSI corporations claim to be independent companies unaffiliated with each university.

WCU, MU, and CU are members of the State System of Higher Education (SSHE), a grouping of 14 public, state-funded institutions all of whom are subject to the standards,, rules, and regulations of the SSHE and all Pennsylvania Laws. For years, both MU and WCU have operated their college bookstores without having to face competition. Both universities use unfair, inequitable and anti-competitive practices to maintain their monopolistic share of the campus marketplace. Their actions border restraint of trade. SSHE regulations restrict state-owned universities from operating their own bookstores, yet these universities operate, control, and subsidize the non profit corporations that operate these bookstores. These monopolistic activities do not occur at Cheyney University (CU).

All S.S.H.E. Universities, except Cheyney University, actively operate their own bookstores, cafeterias, copy shops, game rooms, night clubs, food kiosks, fitness centers, banquet halls, conference centers and campus hotels in competition with their respective local private sectors. The SSI's and other non profits at each school were created to provide these essential university functions that could not provided by the universities under SSHE rules.

If these SSI's and non profits are truly independent from their universities, there is no evidence that indicates an existing public contract and there are no arms-length financial transactions between the entities. In addition, there exist exclusive subsidizations, support and privileges given to these auxiliary corporations. Many questions need to be answered about their non-profit, independent status in that they provide essential educational functions and are indistinguishable from the university.

Despite requests by the Auditor General of Pennsylvania, there are no memorandums or contracts of understanding that explain the exact nature of the relationships between these universities and their respective corporations. The Auditor General's office in the 1994 SSHE University Audit, recommended that each university create a memorandum of understanding about their relationships but no such memo currently exists. Joseph Hamel, WCU VP for Administration and Fiscal Affairs and a WCU-SSI Board Member, has stated that WCU and WCU-SSI enjoy a "special relationship". This special relationship is the explanation that the university provides for many of the special benefits and subsidizations that WCU provides to SSI. At MU, Robert Slabinski, the CEO of MU's non profit corporation, testified in the Commonwealth Court of Pennsylvania that MUSSI does not receive direct subsidization from MU or the Commonwealth. His statements are easily disputed by facts.

In recent litigation with Dynamic Student Services Off Campus bookstore, the Supreme Court of Pennsylvania declined to take additional evidence on the status of both SSI's and erroneously ruled that MU-SSI is an independent entity, unaffiliated with MU for purposes of the Pennsylvania Right to Know Law. Now both universities, WCU and MU have embraced this ruling in an attempt to rest public concern over the questionable relationships and policies at each school. This ruling also has embolded MU to prevent DSS from gaining access to professors and public information. The Supreme Court ruling has emboldened WCU to deny DSS the same access to faculty and vital public information that it gives to it's own non profit, "private" corporation..

MU, WCU, and the SSI's have effectively withheld vital information from DSS, thus preventing the students from having the right to choose where they want to spend their money. Each university controls and subsidizes each of their auxiliary corporations while earning profits referred to as "donations" or "payments in kind for services." The universities have an economic incentive to prevent students from walking off campus to purchase their books or other products.

The actions of public officials at the universities have been detrimental to DSS, students, parents and taxpayers of the Commonwealth. Dan Lieberman would like to report to you, his findings on the questionable business practices of MU, WCU, their administrations, the State System of Higher Education, the Chancellor of Higher Education, the SSI corporations, their officers and employees.

There are many colleges and universities across Pennsylvania and the entire country that seek to eliminate competition in the academic marketplace. They continue to forge ahead in new areas of business, while competing unfairly against the private sector. Members of the private sector like ourselves find ourselves an endangered species without the help of our legislators. This is bad news for students and their families. Without competition in the campus marketplace, prices will escalate forcing students, their families, and our local, state, and federal governments to pay even more money.

Universities and Colleges are maintaining their monopoly in the academic marketplace by preventing competitors from having access to vital textbook order information that is created by professors. They are also preventing students from using their financial aid/ scholarship money from being used off campus, funneling all of those funds directly back into the university and forcing students and the taxpayers to unnecessarily pay higher prices. The college bookstore business is a large industry the produces revenues reaching into the billions. There is a lot of money at stake for taxpayers and the state and federal governments. The Campus Area Small Business Alliance (CASBA) estimates that just a 1% savings for the taxpayers through competition could save our government over 500 million dollars.

Dynamic Bookstores, other private off campus bookstores, students, and their families across the country need your help to lower the costs of education and to open up "Campus Marketplace" for fair and free competition. Please consider creating and supporting any legislation that works towards these goals. Contact your U.S. Senator or Congressman and urge them to step forward and take the steps necessary to lower the cost of higher education for students, their families, and you......the taxpayer.

Outstanding Issues with each Pennsylvania University

Certain information is vital to the existence of a college bookstore. It is essential to collect all relevant course material information concerning textbook and supply adoptions that professors will require or recommend their students purchase, read, study, and learn in order to pass their courses. A listing of all courses being taught at the university, or registration information, is necessary so that proper materials may be ordered for the students. Registration information details sections numbers, professor assignments, dates, times, locations and enrollments. This information is created by the university, accessible to the university and provided to the on campus bookstores at no cost. Any bookstore will incur the costs of soliciting, obtaining and managing this information once it is received.

Both SSI's are given full, complete, open access to faculty and any information necessary from the university. They are given free access to university mail, telephone and computer services. Dan Lieberman was threatened with a lawsuit from the SSHE for "theft of services" when he sent a memo via campus mail in an attempt to access public information.

Professors review materials, make their decisions on required items, and record these decisions on paper, through e-mail, or via telephone. The Liebermans and DSS have requested access to these decisions from both schools and have received vastly different responses each time.

University Roles As Public Institutions and the Applicability of the Pennsylvania Right to Know Law

MU and WCU are state agencies subsidized by Pennsylvania taxpayers. Each university offers courses to students that they must be passed in order to earn credits toward graduation. Part of the responsibility affixed to students by professors and the university is to learn specific information found in required course materials. The universities and their professors expect students to obtain these materials so that they may learn the material, pass the course, earn credit and graduate.

Professors at SSHE universities are state employees employed by the SSHE and each respective university. Any decision made by a public employee at a state agency that affects anyone under the Commonwealth Right To Know Law is a public decision.

When faculty make decisions regarding required texts, supplies or equipment necessary to participate in and pass any given course at that university, then those are public decisions that affect students, parents, professors, bookstores and other members of the public. These decisions constitute public information under the Right to Know Law and must be made accessible to any requesting citizen of Pennsylvania.

As a public institution, it is the university's obligation to provide full and complete access to its public information. MU and WCU have never claimed to be exceptions under the Law in their refusal to allow the Liebermans and Dynamic Bookstores access to vital public information. Rather, they simply deny access to competitors without claiming any excemptions.

1. Course Materials Information:

At MU, the Liebermans and Dynamic have been denied access to course material information by the university administration. The university administration claims it does not have textbook information to provide to DSS. Their claim is that MU-SSI, an "independent, unaffiliated entity from the university", is the custodian for course materials information and that the Liebermans must obtain it from MU-SSI. MU-SSI has stated, both in and out court, that the information they possess is provided to them on privately owned adoption forms. Thus, they believe the information becomes proprietary, as these forms appear to be the only place where this information is recorded.

DSS and the Liebermans solicit the professors directly for this information. DSS has never asked for access to MU-SSI's course material information, booklists, or adoption forms. This was easily misconstrued in court since, again, SSI seems to be the only location of this information. Although MU agreed to provide DSS with full access to the faculty to obtain the public course material information, the university set forth policy that favored MU-SSI by encouraging and pressuring professors to be uncooperative with the Liebermans. Access to textbook information from professors is limited and often denied. MU and MU-SSI have created an environment that makes any "reasonable" access to public information virtually impossible. This environment works conversely to the Right to Know Law, its spirit, purpose and intent. In reality, DSS has *no* access and MUSSI maintains it's monopoly.

DSS has been threatened with several lawsuits by MU, SSHE and MU-SSI. A department chairperson has threatened lawsuits and arrests if DSS continues to solicit him for his information. In a recent confrontation, DSS employees were threatened with arrest by campus police and a personal harassment lawsuit by an academic department chairperson if they attempted written contact for course material information. This department chair has refused to discuss access to information in any way. The letter that created this response is located in Exhibit A.

At WCU, DSS is provided with minimal access to course materials information. DSS pays a cost of thirty-five cents ($. 35) per textbook sheet by direct order of WCU Vice President for Fiscal Affairs, Joseph Hamel. This information is often incomplete, intentionally late, and incorrect. WCU-SSI does not pay WCU for any of this information, and is provided total access to faculty, course material information, updates and changes under university policy requiring faculty to send their orders directly to the WCU-SSI bookstore.

In the past, WCU has asserted control over course materials. Neither Joseph Hamel (VP Finance of WCU , SSI Board member), Dr. Adler, President of the University, or Bernard Carroza (Chair of the Board of Trustees of WCU) will administer the necessary policy and control to ensure that this information is available to DSS and that the university's obligations to uphold the law are met. These are not responsibilities that Mr. Hamel or WCU are unfamiliar with. Several memos to the university community were issued by Mr. Hamel in the past outlining the university's responsibilities under the law and administering policy for adherence to these laws. (These memos are documented starting on pg. 14)

DSS has suggested a number of alternatives to WCU from four-part forms to e-mail distribution in order to streamline the textbook ordering process. Although Mr. Hamel and Mel Josephs (CEO of WCU SSI) committed to one of these options, none have been implemented.

Now that MU has successfully shirked their responsibilities under Pennsylvania law by using the MU-SSI to shield public information from DSS, WCU-SSI now believes that they are no longer obligated to provide information to DSS. WCU-SSI has indicated to DSS that they reserve the right to deny them access to information altogether. DSS has consistently maintained its preference to obtain access to information through WCU and that the *university* must share the information with anyone who requests it at the same time, cost and manner for all parties. DSS should not be forced to obtain information from WCU-SSI, an unreliable source who intends to share information on it's own terms. It was Joseph Hamel, VP for fiscal affairs and WCU-SSI board member, who arranged for and forced DSS to get information from their competitor who sends DSS incomplete, inaccurate information. There are batches of information that DSS has never receives from WCU-SSI for every single semester.* (See letter to SSI in Appendix B-14). Students who choose to purchase books for those courses, do not have a choice as to where to buy them.

*This Fall 1998 semester, DSS completed an audit of the on campus bookstore shelves and found between forty and fifty titles that were on the shelves at the on campus bookstore but were never shared with DSS. This type of action is intended to directly prevent DSS from having the ability to compete with the on campus bookstore in a fair and equitable fashion. Thus those students who needed to purchase those books were forced in most cases to buy New, more expensive copies of those texts as opposed to having the choice to purchase their books at a discount shop like DSS. While the facts are clear and this audit demonstrates clearly the economic damage being committed, WCU and WCU-SSI simply shirk the facts and openly state that they have shared all the information with DSS. The board of Trustees of the university plainly refuse to look at the hard evidence that supports the DSS claims of unfair business practices. They simply claim that it is not happening even though all the facts and data demonstrate that it clearly is occuring by their own hand.

2. Registration Information:

@ *WCU:* Registration information was refused to the Liebermans and DSS until litigation started in the Commonwealth Court if PA in 1995. WCU agreed that it was no longer an issue after Judge Morgan made it clear to all parties that it was obviously public. It is now provided to the Liebermans at twenty-five ($25) dollars per report. WCU-SSI does not pay for access to this same information.

@ *MU:* Millersville has always agreed that registration information is public and has always provided it, upon request, to Dynamic Bookstore at a charge of twenty-five dollars ($25). MU-SSI is not charged any fee to receive this information by MU.

3. Professor Course Packs and Custom Printed Materials

Course packs are defined as collections of articles, writings, professor-published materials, notes from lectures, lab exercises, or lab manuals. What differentiates these from standard textbooks is that they are locally published, usually photocopied, packets or notebooks of information.

@ *WCU:* DSS have requested equal access to professors' custom published materials from the administration and have received no cooperation. These course packs are all published or coordinated by the universities and their professors, using university resources, equipment and materials. Nearly all of these materials are supplied to the WCU-SSI bookstore and denied to Dynamic Bookstore. Students who are required to purchase these items cannot choose where they want to buy them. They must buy them at the WCUSSI bookstore. The Liebermans have proposed that the university make original copies of course packs available to both bookstores at the same time and cost for each store. This would eliminate "exclusive" orders and make them available for students at both stores, inducing lower prices. The university stated that they did not have a policy and that once one was created, it would be communicated to DSS. There has been no communication of any such policy to DSS in over five years.

@ ***MU:*** Although an official request has not been made to the administration for course pack access, the administration refuses to set policy on anything to do with textbooks or student supplies. All requests are being diverted from the administration to MU-SSI, our competitor. Many professors refuse to supply DSS with a copy of their coursepacks. At MU, DSS sells 3-4 course packs that are not available at the MU-SSI university bookstore.

4. Financial Aid, Grants, Loans and Scholarships

Students who are residents of Pennsylvania are eligible to receive financial assistance from the Commonwealth and from the US Government. This assistance is allocated by the Pennsylvania Higher Education Assistance Agency. Monies are also available from the Federal Government. Portions of a student's aid can be used to purchase essential school materials. This aid is distributed by each university's financial aid /bursars office.

@ ***WCU:*** The current system of monetary allocation to the student restricts where they can purchase their supplies and books. WCU issues financial aid students a voucher indicating how much money the student has available for supplies and textbooks. This voucher is only valid at the WCU-SSI bookstore. The University pays the face value of the voucher to WCU-SSI. If the student does not use all of their money at WCU-SSI they are issued a refund for the balance in the middle if the semester which restricts them from purchasing supplies anywhere else than SSI.

These purchases are being funded by all taxpayers.

In the past DSS has accepted a student voucher from one student, allowed the student to charge books against the voucher, and submitted that voucher back to WCU to receive payment for the voucher. WCU denied DSS payment because the voucher was only payable to WCU-SSI due to their "special relationship". This process restricts a substantial percentage of the total students purchasing supplies and books at WCU from having the ability to choose lower priced goods anywhere else. This drives up the costs of these goods of which our government and the taxpayers are footing the bill. If these funds were not restricted students and the government would be able to buy less expensive products and save our government hundreds of millions of dollars across the country.

The Commonwealth of Pennsylvania and its students both stand to reap the benefits of competition if this process is unrestricted so that companies can compete for students' business. The Commonwealth can take advantage of the lower prices dictated by competition to allow PHEAA monies to have greater buying impact thus helping both the student and the Commonwealth to lower the rising costs of education for families as well as taxpayers.

@ MU: MU handles financial aid, scholarship, grant, and loan situations differently. It seems that MU indicates to MU-SSI which students have financial aid, grants, etc. and the amounts of aid available so that MU-SSI can open a bookstore charge for that student, using their expected financial aid money as collateral to charge on the account. In a sense, the student uses their school ID card as an electronic voucher to charge at the MU-SSI store. The process is similar to WCU's financial aid process, just without the paper vouchers.

Once the student's financial aid money arrives, the student is expected to pay off their bookstore charge first. If the bill is not paid, the university agrees to allow SSI, a private company, to withhold the student's grades, scheduling privileges, student ID usage, and even graduation until the student pays the debt to MU-SSI. This "independent" company "unaffiliated with the university" receives this guarantee of payment from the university as part of their "special relationship".

Again, students are restricted from conducting business with any other source for their books and supplies. In addition, the university is extending these students credit until their financial aid monies arrive. Colleges and Universities should not be in the lending and banking business anyway. There are plenty of private lending institutions that provide students with credit such as Visa, Discover, Mastercharge, and American Express.

At CU, where DSS is the on-campus bookstore, students are issued vouchers not specifically made payable to DSS. *In this case, CU pays DSS only for the portion of the face value that the student has actually spent. DSS keeps an account of how much is spent by each student, what type of products they purchase, and the total spent which is not to exceed the face value of that voucher. It is then submitted to CU and paid to DSS upon approval by the administration and the financial aid office. This is a useful model of operandi to help save taxpayers an enormous amount of the money on state appropriations.*

*** Many universities across the country are starting to implement smart cards, or special debit/credit ID cards with magnetic strips or computer chips that allow this process and many other campus processes to happen electronically and efficiently. In many cases, independent off-campus competitors are not being allowed to accept this card. Legislation has been created in other states to combat the unfair business tactics of universities, forcing them to make these cards acceptable at any off-campus business. In return, all participating vendors are required to pay reasonable processing fees right on a standard credit card machine at the register. The processing fees are based on either market standards or flat fees. These types of processing fees should be equal for all vendors to prevent special treatment of the on-campus bookstores over their competitors.**

5. University Guaranteed Credit

@ ***WCU:*** The WCU-SSI bookstore solicits and issues bookstore charge accounts to students who would like to purchase their textbooks and supplies on credit. WCU-SSI is given open access to student directory information and sends solicitations to students through the mail using non-profit discounted mail privileges. Once accepted, students can purchase anything on these accounts. The university backs and supplies this credit to the student. The credit is issued to the student and if the credit bill is not paid by its terms the student cannot schedule for classes, graduate, play sports, etc.. This equates to university or Commonwealth guarantees of privately incurred debt. It would be the same as VISA Corp. receiving credit guarantees by state-owned universities for students who have incurred debt on private VISA cards. WCU-SSI has claimed to be a independent company. Receiving guarantees from the university to ensure that students pay their "private" bookstore charge accounts is an inappropriate use of state resources and a misuse of state funds.

DSS seeks no special arrangements, just open, even-handed competition. In response, Mr. Hamel and WCU have claimed that these arrangements are part of the WCU-SSI "special relationship" with WCU.

@ ***MU:*** MU has implemented the use of the ID card for both pre-payment of bills and as a credit card. This is a substantial threat to Dynamic's economic viability at MU and is something that the university provides exclusive support to SSI for. Again, MU-SSI takes advantage of state resources as part of their special privileges. Students who do not pay their bills are forced to meet directly with the CEO of SSI and threatened with their academic and financial accounts at MU being frozen if they do not pay their bookstore charge.

Grades, scheduling, and even graduation are on hold until students pay MU-SSI. The same holds true for MU-SLI, Student Lodging Inc, who operates housing for MU. Robert Slabinski is also the GM of SLI. Students who do not pay rent to this "independent" company will have their grades, schedules, and graduation withheld until they pay their bill. MU will not provide this service to any other "independent" company such as DSS, Discover Card, Visa/Master Charge. ***There is no legislation that enables Pennsylvania or a state agency of, to back privately funded debt or to be in the banking business.*** This special, exclusive treatment that is given to MU-SSI amounts to state guarantees of independent debts, a misappropriation of state resources.

7. State-Supported Harassment

@ *WCU* Professors without tenure have complained about pressure from the administration not to associate with DSS. Some exclusive orders for course packs have been withdrawn from DSS by professors who have experienced such pressure. Academic departments seeking to place orders with DSS have been commanded by Dr.

Adler, the university president, to submit these orders to the WCU-SSI bookstore. Faculty have repeatedly been advised to withhold textbook information from DSS.

Campus Police continually attempt to prevent DSS student employees from walking on public grounds by intimidating them with forceful arrest threats if they go near the WCU-SSI bookstore building's property.

WCU-SSI and WCU, on two occasions, have prevented Dan Lieberman from open access to the university bookstore which is located in a public building. The bookstore is open to the public and built with public funds by the State of Pennsylvania. In one such incident, Dan was denied entrance and threatened with forceful arrest by campus police officers and Joseph Hamel. The campus police department reports to Mr. Hamel. Mr. Hamel has a conflict of interest which prevents him from representing WCU and WCU-SSI independently of each other. Mr. Hamel used the campus police force to intimidate DSS on WCU-SSI's behalf, stating repeatedly to Dan that "we have a right to refuse you access. We are a private company", referring to WCU-SSI, of which he is a board member.

This was not the first time Mr. Hamel used the campus police for SSI. Campus police have consistently harassed and intimidated DSS employees handing out free gifts and coupons anywhere near the public buildings in which SSI resides. Campus police are also used every semester, for SSI's benefit, to patrol the SSI bookstore during the busy times of the semester. Does SSI, an "independent" company, pay a fee for these state employees' services? We think not.

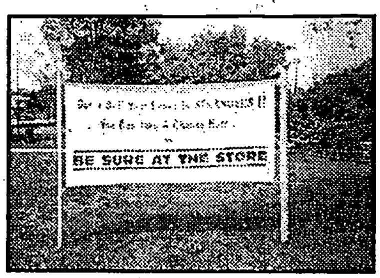
@ ***MU:*** MU and MU-SSI have acted inappropriately towards DSS in their advertising and their actions. They have harassed and intimidated DSS prior to its first semester of business at MU. Upon conducting an end of semester textbook buyback near the on-campus store, DSS encountered questionable and unfair business practices from both MU and MU-SSI. Large banners were placed on university property by university employees alleging that DSS was a rip-off to students and warning students not to sell their books to "strangers".

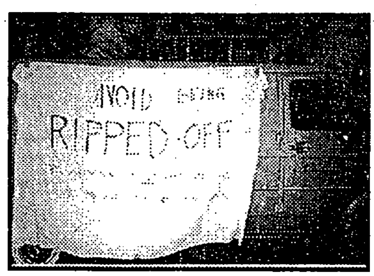
University-owned vans were also used by SSI to communicate the same messages to students. One university van was purposely parked against the bumper of a DSS truck to restrict student access to the back of the truck where DSS operated a legal, mobile textbook buyback for students. One specific university employee stood next to the DSS customer line, defamed the reputation of DSS and harassed the customers who chose to do their business at the DSS truck.

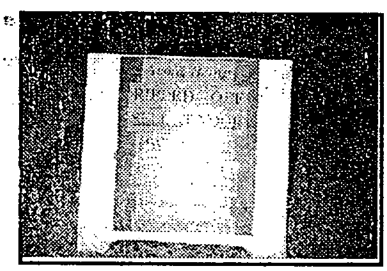
MU-SSI had full access to and control over any resource it needed from the university. Campus police continually interrupted the buyback to accuse Mr. Lieberman of buying stolen books. The campus police director threatened to impound all DSS inventory for confiscation if Dan continued doing business in competition with MU-SSI.

This police director was acting out direct orders from Robert Slabinski, CEO of MU-SSI, to "take care" of this problem with DSS.

When Dan remained to conduct his business, the SSI management issued Dan a bogus lawsuit threat, overtook his truck, took pictures of him and handed him incomplete lawsuit forms in order to intimidate him. The content of the suit alleged that Dan was attempting to use SSI's name and reputation to earn business, or *tortious interference* with contractual relations. DSS never even put a name or sign on it's truck and all of the buyback advertisements where intentionally different from those of MU-SSI. The lawsuit was not based on or grounded in fact and was never pursued by MU-SSI. This was simply another form of state-sponsored harassment by MU and MU-SSI.







SSI threatened to file suit again when DSS opened their store right down the street from the university. MU-SSI complained that DSS, a registered fictitious name, was too similar to that of Student Services, Inc. They charged that DSS was attempting to capitalize on SSI's good reputation. MU-SSI succeeded in forcing DSS to change the Millersville store name to Dynamic College Outfitters. All of these actions were conducted to intimidate and harass DSS. This was SSI's second threat of *tortious interference*, a legal terminology which indicates that one party is intentionally intending to misrepresent itself to use the other party's name, reputation or good will with intention to hurt, or cause damage to, that specific party.

Michael and Dan Lieberman were threatened with arrest while soliciting public information from professors in their office buildings. This occurred after Dr. Gary Reighard testified to the Commonwealth Court that the Liebermans would be given full access to the professors to seek the information needed.

The point of sharing these events with you is to establish that this behavior is encouraged and supported by the administration of the university, on university property, using university assets and employees. Operational authority stems directly from the SSI Board of Directors with the approval of the President of the University. The SSI Boards are dominated by the university's council of trustees, and members of the university administration and faculty. DSS have been denied reasonable and equitable treatment by MU, WCU, and SSHE.

Pennsylvania's Right to Know Law.

According to the Pennsylvania Right-To-Know Law, section 66.1, (2), a public record is defined as:

"Any account, voucher or contract dealing with the receipt or disbursement of funds by any agency or it's acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by any agency fixing the personal or property rights, privileges, immunities, duties, or obligations of any person or group of persons..."

Exceptions provided under the law:

1. ***"Shall not mean any report, communication, or other paper, thpublication of which would disclose the institution, progress, or result of an investigation undertaken by an agency in the performance of it's official duties"***

2. "shall not include any record, document, material, exhibit, pleading, report, memorandum, or other paper, access to or the publication of which is prohibited, restricted, or forbidden by statute law or order, or decree of court"
3. "or which would operate to the prejudice or impairment of a persons reputation or personal security"
4. "or which would result in the loss by the Commonwealth or any of it's political subdivisions or commissions or State or municipal authorities of Federal Funds"

DSS Position On All the Issues

The issues and arguments surrounding the access to public information at a state agency are very easy to over-complicate and distort. The nucleus of the arguments and the actual applications of the Right to Know Law, however, are extremely simple.

The professor is a *public* employee at a *public* agency making a *public* decision that affects the *public*. Thus, it is a *public* decision that must be shared by any and all members of the *public* that request to see it. This is the central argument that DSS has refused to lose track of. All the questions of who owns forms, the status of non-profit organizations, university administration possession and the like are all moot issues. The information is created at the university by the faculty and *must* be provided to any requesting Pennsylvania citizen. This information is created in the public domain and the universities have attempted to place it in the private domain of a subterfuge like the SSI's. The universities control this information and have a responsibility to the public that subsidizes them to make sure that public information created by the university is accessible to all parties at the same time, same cost, and same manner.

What DSS wants is to be treated the same way that the on-campus, competing SSI bookstores are treated. DSS is not asking for special treatment but equality in the marketplace. The State of Pennsylvania should not be giving any vendors special treatments, privileges, and financial subsidies as they currently are.

These SSI's and non profits at all SSHE universities should not be entitled sell products with a non profit status where these products are already available from the private, tax paying sector of the economy. The private sector is at a serious disadvantage. Ironically, the taxes paid by the independent sector are helping to subsidize their competition.

Universities should not be allowed to operate bookstores with non-profit corporations when retailers in the private sector could operate these bookstores, with fair bid contracts. Truly privatizing the university bookstores will introduce lower prices, improved customer service, innovations, and reduced amounts of support required by the state from the bookstores allowing universities to worry about academic missions instead of profit missions disguised as academic missions.

Proposed Solutions and Recommendations

It is within the scope and power of each university to develop procedures consistent with statewide policies in which *all* universities can provide members of the public with access to information that is clearly public. The universities have not claimed an exception under the Right To Know Law of Pennsylvania regarding their information. They are simply preventing access.

DSS has proposed some possible solutions to remedy all of these situations. These proposals have been ignored or turned down by each university.

Issue #1 - Access to Course Material Information

Each university would create, in coordination with the off campus bookstore(s), procedures by which professors would be required to transmit all of their course material information to be redistributed to all parties at the same time*, same cost*, and same manner*. The medium of communication should not be the emphasis. If it is paper, all parties will pay to have the forms copies or will pay for the printing of the multiple part forms. If information comes electronically through e-mail, each party will be responsible to have it's own Internet connection, and so forth for other mediums.

* This becomes especially important around the end of each semester when students can sell their books back to stores for cash. Stores buy books back from students at higher prices when they know that the professors is using the books again for the next semester. To remain competitive and not lose the customer or their book at the buyback line, each store needs to know course information as soon possible. Unfair competition can result if one store knows a title is being used and the other does not because the information was delayed so they would not know what titles to buy back from students.

Issue #2- Registration Information

DSS would simply like all of the SSHE universities to make sure that if a charge to receive this information from the university computer system is necessary, then *all* parties must pay the same fees.

Issue #3- Coursepacks

DSS would like all of the SSHE universities to require faculty to make their custom published materials available to all bookstores at the campus marketplace with bibliographies of articles, book chapters, etc. that are used so that each store may obtain copyright permissions independently of each other. Coursepacks would be available at all stores for students.

Issue #4- Financial Aid, Scholarships, Grants, Loans

DSS suggests looking at CU as the example or model of how all financial aid, scholarships, grants and loans should be processed. Students should be extended a voucher from the university so that the student can spend their financial aid money before it actually arrives from PHEAA or the Federal Government. The face of the voucher should state that this voucher can be accepted at any business that is registered with the university to do so. The university could probably even charge a processing fee to handle the paperwork. They probably do not charge SSI for such a service.

If this process was computerized and the student ID cards where used to store the purchasing and credit information, it would be similar to a credit card. Any business could accept the students "credit card", "ID card" etc. and be paid by the university upon accepting the card on the credit card machine obtained through a private bank that will handle the extension of credit issued to the student before the financial aid monies arrive. Independent, off-campus vendors would then pay network or processing fees to the network provider or bank at a fair comparable market value compared to VISA, Discover, American Express, etc..

This process will enable students on financial aid, scholarships, grants or loans to use their 'electronic' voucher at any authorized location. Authorization to accept the students' electronic voucher should be granted only to businesses that sell items that are absolutely necessary for their college education, unlike college sweatshirts or music CD's. Currently, universities abuse the use of these appropriations to students so that the university can capitalize on the profits made from those sales. This in not beneficial to Pennsylvania taxpayers.

DSS feels that the above process is the best means of controlling these appropriations while allowing students to have the freedom to shop around for the best prices on their supplies.

Issue #5- University extended credit

DSS would request that the universities refrain from extending credit to their students either directly or through their non-profit corporations. The universities should not provide special services like account or schedule freezes to any company to assist in the collections from students who have not paid back debts incurred.

WHAT CAN YOU DO?

You can help students and their families by supporting Senate Bill S.2490. Call your U.S. Senators and Congressmen and ask them to help all American Families lower the costs of a college education by opening up the Campus Marketplace to competition. Let your Senators and Congressmen know how much you spend each semester for tuition, room and board, and textbooks/supplies. Voice your opinion!!!

Sept. 8, 1998

Daniel Lieberman
Dynamic Student Services
20 Linden St.
West Chester PA 19382
(610)-692-8030

Office of the Bursar
West Chester University of PA
West Chester PA 19383

Please find enclosed a bookstore voucher from WCU student Valerie M. Secrest. This voucher was submitted to us for the purchase of her textbooks in the amount of $198.93. Valerie has specifically requested that you honor her request to make payment to Dynamic Student Services for her textbook purchases. Since the money that Valerie is due to receive in her financial aid account is public funds, we insist that you stop handicapping student's ability to purchase their supplies at lower prices, off campus. The student's right of choice is essential since this money is coming from the taxbase in the first place.

We are open to more discussion with your office to work out a mutually beneficial process that will enable you to process our future voucher submissions in a efficient manner for both of us. For now, we would like to ask you to honor only the amount that Valerie has used for her textbooks. Although the voucher amount is for $376 (three hundred seventy six dollars), she only spent $198.93. She is also aware and has agreed not to spend over the $376 limit between both SSI and our store. As you can see on the actual voucher, Valerie has signed and requested payment to be made to Dynamic Student Services.

Please make payment to "Dynamic Student Services" within 15 business days. Thank you for your cooperation.

Sincerely,

Daniel Lieberman

Daniel Lieberman
Partner, DSS

cc: John Carnes Esq., Dr. Madeline Adler, Dr. Bernard Carroza, Rep. Roy Reinard, Rep. John Lawless. Rep. Eleanor Taylor, Governor Thomas Ridge

BOOKSTORE VOUCHER

Date: 9/1/98

Please allow: Valerie M. Secrist ID # 298932

to charge up to $ Three hundred + seventy-six dollars and xx/100 at the bookstore. The check will be payable to SSI.

Bursar Authorized Signature: Barbara Jo Cox

This voucher is for books and related supplies at the SSI bookstore ONLY. Not to exceed $400.
Any money not used will be refunded by SSI after mid semester.

My signature below is authorization for West Chester University to use my available Title IV funds to cover this voucher. I have read this statement and agree to be bound by these terms.

Student Signature: Valerie M. Secrist

Please accept this voucher from Dynamics Bookstore for 198.93. Thank You,
Valerie M. Secrist

West Chester University

09·01·98
1 39·99※
1 54·65※
1 30·00※
2 53·99※

2 20·30※
0 5
198·93
12·58
1 3425

West Chester University

Office of the Bursar

West Chester,
Pennsylvania 19383
(610) 436-2552

September 14, 1998

Daniel Lieberman
Dynamic Student Services
20 Linden St.
West Chester, PA 19382

Re: Voucher for Secrist

Dear Mr. Lieberman:

The student voucher which you presented to West Chester University for collection is only valid at the Student Services Inc., Bookstore. Your receivable must be collected directly from Ms. Secrist, your customer.

Sincerely,

Daniel Pauletti
Director of Student Financial Services

A Member of the Pennsylvania State System of Higher Education

Student/Parent Voices of Pennsylvania

Feedback on the cost of textbooks from Pennsylvania college students and their families.

Pennsylvania Students and their families continually battle the ever-increasing costs of a college education. A frustrating area of concern that needs to be addressed is the high cost of textbooks. Many campuses enjoy monopolies and exclusively sell textbooks and other supplies to students and their families. When such a monopoly exists, businesses can charge exorbitant prices for their goods because consumers have no other purchasing options. Essentially, "there's only one game in town".

The existence of off-campus bookstores is fundamental to the preservation of the students' right of choice, the prevention of monopolistic marketplaces, and the creation of a competitive environment that benefits consumers with lower prices and better services.

Yet many of these off-campus competitors do not enjoy the benefit of competing in an equitable, fair, and open marketplace. There are many disadvantages that off-campus stores endure in order to offer their services to students. It is in the best interest of all students, families, tax payers, and even the universities to make sure that off-campus competitors be protected from unfair competition.

"I understand these principles and would like to give you my opinions and feedback on how you can help preserve my ability to choose."

I agree
☑ Each university in Pennsylvania that receives state funding should be required to make all professors' classroom textbook/supply requirements accessible to the public so that any bookstore can access this information and be able to sell those titles/supplies.

I agree
☑ The current system of allocating student's financial aid, scholarship, or grant monies for school supplies does not allow a student to spend their state or federal allocated money where they would like to. Student's are forced to buy their books on campus and do not have a choice. All universities in Pennsylvania should be prohibited from taking away students' right to choose where to spend the money allocated to them. Competing stores should not be cut out of the process so that students are forced to pay higher prices, especially when they are spending the government's money.

Signature: Andrew K Bell Date: 12/18/97

Print Name: Andrew Bell School Phone #: 393-6854

Student or parent comments on textbooks, financial aid, or unfair competition:

More bookstores = More Competition

More Competition = Lower Prices

Lower Prices = Happy Students

BEST COPY AVAILABLE

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Signature: Kimberly A. Hughes Date: 18 Dec. 1997

Print Name: Kimberly A. Hughes School Phone #: (717) 871-4847

Student or parent comments on textbooks, financial aid, or unfair competition:

FREE CHOICE!

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☑ **Each university in Pennsylvania that receives state funding should be required to make all professors' classroom textbook/supply requirements accessible to the public so that any bookstore can access this information and be able to sell those titles/supplies.**

I agree

☑ **The current system of allocating student's financial aid, scholarship, or grant monies for school supplies does not allow a student to spend their state or federal allocated money where they would like to. Student's are forced to buy their books on campus and do not have a choice. All universities in Pennsylvania should be prohibited from taking away students' right to choose where to spend the money allocated to them. Competing stores should not be cut out of the process so that students are forced to pay higher prices, especially when they are spending the government's money.**

Signature: Michelle RC Santacroce Date: December 18, 1997

Print Name: Michelle RC Santacroce School Phone #: 871-9173

Student or parent comments on textbooks, financial aid, or unfair competition:

I believe that competition is healthy - among any type of retail stores. The fact that University Stores hold a monopoly on books is WRONG. Competition lowers prices & as a college student I don't have an extra $100 to spend on books. By professors not sharing their textbook information w/ other stores, they are forcing me to spend my money where they want me to. NO ONE HAS THE RIGHT TO TELL ME WHERE TO SPEND MY OWN HARD EARNED MONEY !!! NO ONE! Not even my parents. I work for a living + I pay taxes like everyone else. I'll spend my money where I want to - not where "The University" tells me to!!

Student/Parent Voices of Pennsylvania

Feedback on the cost of textbooks from Pennsylvania college students and their families.

Pennsylvania Students and their families continually battle the ever-increasing costs of a college education. A frustrating area of concern that needs to be addressed is the high cost of textbooks. Many campuses enjoy monopolies and exclusively sell textbooks and other supplies to students and their families. When such a monopoly exists, businesses can charge exorbitant prices for their goods because consumers have no other purchasing options. Essentially, "there's only one game in town".

The existence of off-campus bookstores is fundamental to the preservation of the students' right of choice, the prevention of monopolistic marketplaces, and the creation of a competitive environment that benefits consumers with lower prices and better services.

Yet many of these off-campus competitors do not enjoy the benefit of competing in an equitable, fair, and open marketplace. There are many disadvantages that off-campus stores endure in order to offer their services to students. It is in the best interest of all students, families, tax payers, and even the universities to make sure that off-campus competitors be protected from unfair competition.

"I understand these principles and would like to give you my opinions and feedback on how you can help preserve my ability to choose."

I agree ☑ **Each university in Pennsylvania that receives state funding should be required to make all professors' classroom textbook/supply requirements accessible to the public so that any bookstore can access this information and be able to sell those titles/supplies.**

I agree ☑ **The current system of allocating student's financial aid, scholarship, or grant monies for school supplies does not allow a student to spend their state or federal allocated money where they would like to. Student's are forced to buy their books on campus and do not have a choice. All universities in Pennsylvania should be prohibited from taking away students' right to choose where to spend the money allocated to them. Competing stores should not be cut out of the process so that students are forced to pay higher prices, especially when they are spending the government's money.**

President of A Sorority

Signature: Victoria Hayes Date: 12/18/97

Print Name: Victoria Hayes School Phone #: 717-871-0343

Student or parent comments on textbooks, financial aid, or unfair competition:

I feel that students are ripped off by university stores. Monopolies are illegal, therefore books supply lists should be made public so that other stores can supply us with what we need. I refuse to be told where I can buy books just because the school says so. Competition is healthy so why are University store against it. Are there scared?

Student/Parent Voices of Pennsylvania

Feedback on the cost of textbooks from Pennsylvania college students and their families.

Pennsylvania Students and their families continually battle the ever-increasing costs of a college education. A frustrating area of concern that needs to be addressed is the high cost of textbooks. Many campuses enjoy monopolies and exclusively sell textbooks and other supplies to students and their families. When such a monopoly exists, businesses can charge exorbitant prices for these goods because consumers have no other purchasing options. Essentially, "there's only one game in town".

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"I understand these principles and would like to give you my opinions and feedback on how you can help preserve my ability to choose."

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I agree ☒ **The current system of allocating student's financial aid, scholarship, or grant monies for school supplies does not allow a student to spend their state or federal allocated money where they would like to. Student's are forced to buy their books on campus and do not have a choice. All universities in Pennsylvania should be prohibited from taking away students' right to choose where to spend the money allocated to them. Competing stores should not be cut out of the process so that students are forced to pay higher prices, especially when they are spending the government's money.**

Signature: James P. Senft   Date: 12.19.97

Print Name: James Senft   School Phone #: (717) 871-4290

Student or parent comments on textbooks, financial aid, or unfair competition:

I believe our country is based on a capitalist, free market system. At Millersville, if we lose Dynamic Bookstore, there is no competition for the School bookstore. Monopolies are dangerous. I do not want to give the school the power to charge any price for books they want.

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The students of Millersville University of Pennsylvania hereby petition our legislature...

..to protect our ability to choose where we can buy our textbooks. College costs are constantly on the rise and competition between bookstores enables us to lower the costs of our education. We have chosento sign this petition to support private bookstore efforts to provide us with an alternative source for our needs. We sign this petition to urge you to write and approve legislation that will ensure that all textbook decisions remain public and accessible to any competing or university bookstore and that all scholarship, loan, or financial aid students be given the ability to choose where to buy their college textbooks. We the students ask you to protect our right to choose. Please support Dynamic Bookstores and others like them.

Name / Major / Class Year	Name / Major / Class Year
Edward O'Brien / OSHM / 94	Wes Dixon Music Industry Studies Senior 98
T. Costa SPED 98	[illegible] Psych/Soc '00
[illegible] Place / SPAN / 97	Ryan Russ ITEC 2000
S. Brown ART Junior '99	Alexis Francesc English 98
[illegible] ITEC Senior '98	Jonathan M. [illegible] Music '99.
J. Grabusky Itec Junior 99	Michael [illegible] Geology '99
P. Weaver CNM Sr. '98	Rebecca [illegible] Music [illegible] 2001
J. Partner BUAD Jr. 99	Rose Ann Dorning SoWk. 2000
T. Howell Buad Jr 99	[illegible] BUAD '98
K. Rupp Chem Sr. 98	Catherine Bersani Comm-PR 98
[illegible] Meteorology Fresh. 2001	James Bullock BUAD 98
[illegible] CS Fresh 01	Corey [illegible] OSHA 99
Shawna Sivils Buad fresh. 01	Michael Farnelle OSHA 99
[illegible] ElED Sr 99	Amy Bowersox BUAD '99
C. [illegible] Econ SR. 98	Daniel [illegible] Econ 02
Kent [illegible] Mathematics '95	Elliot Parker undec. 02
[illegible] English 99	[illegible] Psy. 1998
David C [illegible] JUNIOR '99	Eric Walker / ART / 2001
[illegible] Biology 98'	[illegible] / Comm / 2000
Kathleen [illegible] P.S. '99	[illegible] Comm / 98
[illegible] Eled. '00	David Morgan BuAd / 2000
Lynda [illegible] Math '01	[illegible] CSCI 1999
[illegible] BuAD '98	Ismail A. Salim. English Ed. 2000
[illegible] Music '00	[illegible] A. [illegible] math & CompSci. 98
Meg Sayasi Sec Ed/SS '01	Jodi Martin Eled 2000
[illegible] BUAD '98	[illegible] Comm 2000

The students of West Chester University of Pennsylvania hereby petition our legislature...

to protect our ability to choose where we can buy our textbooks. College costs are constantly on the rise and competition between stores enables us to lower the costs of our education. We choose to sign this petition to support private bookstore efforts to provide us with an alternative source for our needs. We sign this petition to urge you to write and approve legislation that will ensure that all textbook decisions remain public and accessible to any competing bookstore and that all scholarship, loan, or financial aid students be given the ability to choose where to buy their college textbooks. We the students ask you to protect our right to choose. Please support Dynamic Bookstores and other stores like them.

Name / Major / Class Year	Name / Major / Class Year
Carrie Madden Crim. Justice Freshman	Drew Calcano Junior
Danielle Lewis El. Ed. Junior	Kelly Yager Marketing Sophomore
David Leslie BSED Senior	Amy Dick / Nursing / Junior
Charles Tay Pol. Sci. Senior	Stephanie Rickmas
[illegible] French Junior	Kerry Gallagher FRENCH Senior
[illegible] Miller / El Ed / 3rd Year	[illegible] Senior CRJ
Professor Alex. Dunlap	Lilith Buffington
Jessica McMaster / Communications / Freshman	Kerry Taylor Junior
[illegible] / KIN / Junior	[illegible] grad
K. McGill Junior	[illegible] Jnr.
Bill Henderson Sp Ed junior	Keary Larson / Music / Junior
[illegible] / Undeclared Soph	April Grant undeclared 2001
Cynthia Seidle / Fin Leng / [illegible]	Christian D. Vigna Accounting 1999
Tina Rife / Psych. / Soph.	[illegible] Phys Ed Freshman
Lesley Wechter	Dan McCullough
[illegible] Senior	Nicole [illegible]
Adrian Werner Poli Sci Int'l Rel Senior	[illegible] (SOPH)
Daniel Deutsch Comm Senior	Christine Goldberg - Communications Jr.
[illegible] Senior / Sec Ed / Soc Sci	Wendy Jeffers - Jr. - Communications
[illegible]	[illegible]
[illegible] Buchanan Senior CRJ	Cynthia [illegible] Sr. Biology
[illegible] Athletic Training Soph.	Anthony [illegible] Undecided Freshman

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MU students left with only the company (book) store

Rival bookstore gives up fight.

By Gil Smart
Assistant News Editor

Goliath finally stomped David.

After three years of trying to compete with the Student Services Inc. empire in Millersville, the Dynamic College Outfitters bookstore on West Frederick Street will close at the end of the month.

"We've been driven out of business by the school and by SSI," claimed Dan Lieberman, owner of the bookstore.

The event ends a long-running battle between Lieberman and Student Services Inc., which runs the Millersville bookstore on campus, as well as nearly a dozen other enterprises on campus.

Lieberman had long claimed that SSI enjoyed an unfair competitive advantage, because the university provided lists of books to be used by professors to SSI but refused to give the same information to Dynamic. The conflict came to a head in 1997, when Lieberman took SSI and Millersville to court over the issue, claiming that SSI was in effect part of Millersville University, and that this made the book lists public information.

The state Supreme Court disagreed.

SSI has long acknowledged that it enjoys a "special relationship" with Millersville University, which includes access to the book lists. There also are plenty of other facets to this relationship — including the use of Millersville student activity fees to pay the salaries of three executives on SSI's payroll.

But the arrangement has the support of the administration — and few MU students seem to care.

More BOOKS on A-11

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SUNDAY NEWS, LANCASTER, PA.

Books:
Rival store goes under

Continued from A-1

SSI has long had a virtual monopoly on Millersville students' money.

In addition to the bookstore, SSI operations include management of the Student Memorial Center, University Store, copy shop, Cafe de'Ville coffee shop, fitness center, student banking, game room and campus vending. It also operates the campus Pizza Hut.

The SSI board is packed with MU students, administrators and trustees. SSI's sister company, Student Lodging Inc., rents apartments to students and lent money for the Best Western hotel near MU, owned by a for-profit offshoot of Student Lodging and now managed by a retired MU vice president.

Established in 1956 to provide to students services that weren't readily available through the university, SSI has grown into a conglomerate with nearly $5 million in annual revenues and an endowment of more than $1.1 million, according to its latest tax returns.

Its top executive, chief executive officer Robert Slabinski, has an annual salary of $97,831.

SSI's relationship with Millersville includes the use of campus mail and e-mail. SSI employees are covered by the State Employees Retirement System. Millersville can withhold grades and diplomas if SSI bills are not paid.

The aspect of SSI's relationship with MU that troubled Lieberman the most was the book lists.

In order to stock his shelves, Lieberman needed the lists of books professors used in their courses. Millersville professors traditionally had filled out book order forms — provided by SSI — and turned them in to SSI's University Store.

"We couldn't get access to the same information the other side did," Lieberman said.

Slabinski does not think SSI enjoyed a competitive advantage.

After Lieberman lost his suit against SSI, SSI turned around and sued him in part for printing his own book order forms and distributing them to professors. The forms contained SSI's name — leaving the false impression, SSI officials said, that SSI sanctioned the forms.

That case is still pending.

Dynamic's troubles became apparent to students during the past year.

Millersville graduate Melissa DiNofia, who served as president of the student senate last year — and also was a student member of SSI's board of directors for two years — said Lieberman made frequent pleas for support to the senate and Millersville students over the course of the 1997-98 school year.

"(Dynamic) apparently thought that students had been brainwashed by SSI into not shopping at their store," she said.

By the end of the semester, Dynamic College Outfitters was only open sporadically. Rumors flew; last month Lieberman confirmed them by posting a sign saying that the store was going out of business.

Near the end, she said, few students were shopping at Dynamic because of the erratic hours, bare shelves — and the sense that SSI profits were being invested back into the school community, while Dynamic's profits weren't.

Most students, however, didn't seem to care one way or another.

"There's a lot of apathy at Millersville," she said.

One student who did care was Kevin Kline, who graduated in May from Millersville.

For years, Kline had been questioning SSI's relationship with the university — particularly that student activity fees, paid by every student, are funnelled to the corporation.

Each year, approximately $100,000 — about one-tenth of the entire student senate budget — is allocated to the University Activities Board, which then gives the money to SSI. The money is used to pay the three managers of the Student Memorial Center, according to SSI's Slabinski.

The arrangement began some 20 years ago, Slabinski said, when the University Activities Board, which then ran the Student Memorial Center, asked SSI to take over the task, and arranged to pay for the service.

There is no written contract.

Kline, a former student senator and member of the appropriations committee, argued that the only organizations eligible for senate funding are recognized campus clubs and organizations — and that SSI isn't one of them.

"It's illegal," said Kline flatly. "This money belongs to the students."

Kline took his concerns to SSI officials and university administrators, but was rebuffed. In early May the Millersville student newspaper, The Snapper, published a letter he wrote about the issue, accusing the Student Senate of lacking the backbone "to stop this funding scheme... just think of all the extra money that would be left to allocate to truly worthy student clubs (and) organizations."

Slabinski sounded mildly amused when discussing Kline's assertions.

"Kevin just doesn't want to accept that there is nothing subversive about this in any way, shape or form," Slabinski said.

Dr. Robert Thomas, Millersville vice president for student affairs, said the student senate can cut off the funding if it wants to — but would then either have to find another way to pay the managers and keep the center open itself, or close the center.

"I don't think the students want that to happen," Thomas said.

State laws prevent the university from using tuition money to pay to staff and maintain the center, Thomas said.

"That's why SSI was created — to provide services the state says the university can't provide," he said.

Lieberman said closing Dynamic College Outfitters is an "economic tragedy" both for himself — and Millersville students.

"We've lost a ton of money at this university," said Lieberman, whose family also owns bookstores on campus at Cheyney University and off campus at West Chester University.

"But more important, this is a tragedy for Millersville students," he said. "Now there is no competition, nowhere to go for lower prices."

SSI's Slabinski said he doubts students will suffer.

As in other businesses, it's survival of the fittest, he said.

"It's always difficult to compete with a strong, established competitor," Slabinski said. "You need to have a better product, better prices or service. When you offer none of the above, it's very difficult to compete."

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By John-Paul de Bernardo

GUEST COLUMN

Ripping Off Needy Students

Monopolizing on-campus bookstores and federal aid

CHARLOTTE

Robin Hood stole from the rich and gave to the poor — a little radical, but at least he was on the side of equity. The needy benefited.

Unfortunately, the converse is true on many of America's college and university campuses today. The most needy students — those receiving federal student aid — are being robbed by many educational institutions' on-campus, monopolistic bookstores and other commercial enterprises. Moreover, the thievery is being permitted and arguably promoted by the U.S. Department of Education (DOE), whose grant and loan programs embrace a federal-aid distribution scheme that effectively rips off our nation's most needy students by significantly reducing their buying power.

Specifically, the DOE fosters student-aid funding methods that, in effect, force students receiving federal aid to buy only at on-campus, institution-controlled commercial enterprises. In essense, using federal financial aid, the DOE permits monopolies and allows "monopoly profits" to be obtained through higher on-campus bookstore prices. This benefits the institution's commercial interests, while its students — quite literally — pay the price. This policy also decisively hurts the parents who help fund their children's education and taxpayers who fund or guarantee student-aid programs.

Moreover, on-campus enterprises, recognizing their opportunity, seize on any DOE-permitted opportunity to freeze out any student-market competition. The advent of campus-sponsored, campus-use-only "campus cards" — debit, credit, or "smart" cards — further and more effectively contain federal aid money within this monopoly. And the institutions play the game better than Parker Bros.

Consequently, colleges and universities more and more are becoming commercial conglomerates. Some simply exploit their tax-exempt status and their on-campus location as major advantages over off-campus, private-sector businesses. One consequence is a substantial erosion of the local tax base surrounding these seats of higher (l)earning. With each passing semester, competition decreases.

Meanwhile, these seats intentionally and drastically multiply their competitive advantages however they can. For example, many colleges and universities refuse even to release the list of professor-required textbooks to off-campus stores. Straight-faced, they cite "confidentiality" and "privacy rights." Perhaps the CIA should be called on to safeguard these book lists?

Democratic U.S. Senator Christopher Dodd recently wrote, "If college expenses continue to rise five percent a year, a family that has a child today ... must save almost $400 a month over the next 18 years to finance four years of private college. For a public school, they will have to save about $175." A monopolistic edubusiness culture hurts students first and foremost by raising the college expenses Senator Dodd referred to.

There can be little doubt that full and fair competition would benefit students. A recent, detailed, national survey of student textbook costs at on-campus and off-campus bookstores found that textbook prices for new and used textbooks at competing off-campus stores were priced an average 31 percent lower than at on-campus stores. Presumably, prices are even higher at on-campus bookstores when there are no off-campus alternatives.

What is at stake is a lot of money — taxpayers' money. The federal-aid program for students at institutions of higher learning involves $50 billion annually for 9,000,000 students at 7,000 colleges and universities. Thus, a mere one-percent savings realized from more competition would, in the aggregate, be substantial — $500 million.

As business-administration professors tell their students about the evils of monopolistic practices, their university's administrators practice the opposite of what they preach.

In short, the DOE and the educational institutions should not condone, promote or permit any policy or process that unfairly protects the institutions' monopolies. In fact, the DOE should require institutions to facilitate and promote full competition on a level playing field and thus help students, who should be the true beneficiaries of its programs.

The fundamentals of these abuses will not change without Congressional action. It's time taxpayers, students, parents and small businesses combine to urge Congress to end these abuses — and soon. One senior DOE policymaker told this writer: "We serve institutions, not students." This cannot be what Congress — or its constituents — want.

The bottom line is that students should be getting more book for the buck. Let's stop the robbing from the poor to give to the rich.

John-Paul de Bernardo is a lawyer in private practice in Charlotte, NC.

Statement for the Record

U.S. Senate Committee on Small Business
Hearing held on September 24, 1998

David Longanecker, Assistant Secretary
Office of Postsecondary Education
U.S. Department of Education

Submitted October 7, 1998

The Administration is currently reviewing S.2490, which would generally prohibit postsecondary educational institutions from requiring students to purchase goods and services from on-campus businesses or otherwise favoring such business over off-campus businesses. Accordingly, the Administration does not have a position on the bill at this time. We note, however, that nothing in the Higher Education Act of 1965, or any of the Department of Education's regulations interpreting that Act, prohibits or discourages students from purchasing their books and supplies from off-campus businesses and that many students currently use Federal student aid funds for this purpose. We note further that the bill would appear to (1) raise serious questions about the appropriateness of the Federal role in relation to state and private student aid programs, and (2) expand oversight by the Department of Education to campus business practices, an area not currently subject to the Department's regulation and one that should remain subject to local control.

STATEMENT

on

COLLEGE STUDENT PURCHASING FLEXIBILITY
AND FREE CHOICE

and in support of

THE COLLEGE COSTS SAVINGS ACT OF 1998, S.2490

By

RICHARD C. YOUNT

on behalf of

LOUPOTS BOOKSTORES OF HOUSTON, INC.

before the

COMMITTEE ON SMALL BUSINESS
OF THE
UNITED STATES SENATE
September 24, 1998

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&
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Writers Direct No. (713) 646-1370

September 21, 1998

VIA FEDERAL EXPRESS

Senate Small Business Committee
Attn: Ms. Karen Ponvurick
428A Russell Senate Office Building
Washington, DC 20510

Re: *Loupots Bookstores of Houston, Inc.*

Dear Sirs and Madame:

This firm represents Loupots Bookstores of Houston, Inc. ("Loupots"). This letter is written on behalf of Loupots in support of Senate Bill 2490. Loupots is one of hundreds, if not thousands, of independently owned and operated college bookstores that are being discriminated against in connection with the distribution of funds under the federal student financial aid programs. Loupots is very typical of most privately operated off-campus bookstores and has encountered great difficulties in the sale of college textbooks to financial aid students, to the detriment of these students and the financial aid programs in question.

We have divided the following discussion into six topic areas for ease of reference as follows:

A. A Typical College Bookstore Market
B. Nature of Competitive Disadvantage
C. Effect of the Lack of Competition on Students and Parents
D. Response of Colleges and Education Boards
E. Responses of U.S. Department of Education
F. Conclusion

A. A Typical College Bookstore Market

Loupots owns and operates two bookstores and is engaged in selling college textbooks primarily to students of the Houston Community College System ("HCCS"). HCCS provides college level courses to about 60,000 students a semester at 9 major campuses and approximately 50 other campus locations in the Houston metropolitan area. HCCS is larger that more community or junior colleges, but its operations are typical of many community and junior colleges except that many of its campuses have a high proportion of financial aid students.

CLEVELAND, OHIO (216) 621-0200 | COLUMBUS, OHIO (614) 228-1541 | DENVER, COLORADO (303) 861-0600 | LONG BEACH, CALIFORNIA (562) 432-2827 | LOS ANGELES, CALIFORNIA (213) 624-2400 | ORLANDO, FLORIDA (407) 649-4000 | WASHINGTON, D.C. (202) 861-1500

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HCCS has contracted with Barnes & Noble Bookstores, Inc. ("Barnes & Noble") to be its on-campus bookstore provider pursuant to a Bookstore Leasing Contract pursuant to which Barnes & Noble pays HCCS an eight percent (8%) royalty (in lieu of rent) on all sales. This is also typical of most colleges and universities. The majority of colleges and universities contract out their bookstore operations to either Barnes & Noble or Folletts. Therefore, the problems faced by Loupots and the problems faced by financial aid students at HCCS are typical of problems existing nationwide at other colleges and universities. Pursuant to its Bookstore Leasing Contract with HCCS, Barnes & Noble maintain bookstores on premises provided by HCCS as well as on premises separately leased by Barnes & Noble. Barnes & Noble operates HCCS bookstores at nine (9) or more separate locations. Loupots owns and operates two (2) bookstores located just off two of the major HCCS campuses. These bookstores cater to the needs of HCCS students which represent almost all of their business. Loupots would operate stores near additional campus locations except for the fact that the high proportion of financial aid students at other campus locations makes it impractical. There are no other competitors in the HCCS college bookstore market.

Pursuant to Section 19 of its Bookstore Leasing Contract, Barnes & Noble pays HCCS a percentage of gross sales. Section 13 of its Bookstore Leasing Contract provides that Barnes & Noble shall operate as an <u>independent contractor</u>. The Bookstore Leasing Contract also expressly provides that Barnes & Noble has "the <u>exclusive</u> right to provide books and supplies to all students receiving grants through financial aid programs." This is a typical contract arrangement between a college or university and either Barnes & Noble or Folletts. Although Barnes & Noble is provided lease space on HCCS premises under the Bookstore Leasing Contract (a fact Loupots emphatically does <u>not</u> object to and recognizes as a legitimate right granted to Barnes & Noble by HCCS pursuant to a legitimate bid process), it is important to note that Barnes & Noble is not an employee or agent of HCCS and is expressly designated as <u>an independent contractor</u>.

B. **Nature of Competitive Disadvantage**

The manner in which HCCS distributes information and vouchers with respect to financial aid students is typical of most colleges. The practical effect of their practices is to prevent financial aid students from using financial aid funds to purchase text books from any source other than the on-campus bookstores.

HCCS maintains an "account" in the name of each student who receives grants or scholarships and deposits into that account any monies received from any grants or scholarship monies which the student may receive. The student then receives a periodic accounting of that money from HCCS. However, the grant and loan funds for any semester are either (1) not received by HCCS until several weeks or a month into the semester or (2) not distributed by HCCS to the student until several weeks or a month into the semester. Obviously, no student can be expected to wait several weeks or a month to purchase his or her text books. Prior to disbursement of financial aid funds, HCCS provides information regarding the anticipated financial aid grants and loans to Barnes & Noble on a preferential basis. Therefore, Barnes & Noble is able to immediately sell the books to the student on credit and has an understanding with HCCS that Barnes & Noble will be reimbursed, and is, in fact, subsequently reimbursed directly by HCCS for the books before the grant or loan money is distributed by HCCS to the financial aid students. In performing these functions, HCCS is providing information services, accounting services, and accounts receivable collection services to Barnes & Noble.

However, HCCS through its attorney has expressly declined to provide the same financial aid information and services or direct reimbursement of financial aid funds to Loupots and has declined to make any effort to treat Barnes & Noble and Loupots equally. HCCS has advised Loupots that, pursuant to the Bookstore Leasing Contract, HCCS has granted to Barnes & Noble ""the exclusive right to provide books and supplies to all students receiving grants through financial aid programs." This provision alone raises serious questions as to whether HCCS is exercising its fiduciary responsibilities with respect to the student financial aid funds in an appropriate manner. HCCS does not have, under state or federal law with respect to such grants in aid, the right to use the grants for the direct benefit of Barnes & Noble or the indirect benefit of HCCS through its receipt of royalty payments. Nevertheless, the result of these business practices is that Loupot's is effectively precluded from selling books to financial aid students.

C. Effect of the Lack of Competition on Students and Parents.

The practical effect of a lack of competition for the student is that it leads to monopoly type conditions. This is felt in a number of different ways. First, the fact that there is no competition for the book business of financial aid students typically leads to a lower level of service and long waiting lines at the campus bookstore at the start of each semester. The value of time lost is difficult or impossible to measure. In many cases, those students not on financial aid are either given access to shorter lines or elect to take their business off-campus. Second, most students prefer lower cost used textbooks. Financial aid students are deprived of the opportunity to buy lower cost used textbooks since they can only access one vendor (the on-campus provider) and that vendor is often sold out of used books before financial aid vouchers are issued. There is also some indication that on-campus providers such as Barnes & Noble divert used books to locations where there are competitive off-campus bookstores. Since it is impossible to establish competitive off-campus stores on campuses where there is a high incidence of financial aid students, those campuses lose any access to used textbooks. Third, the college bookstore market is one of the few markets where retail discounting does not exist and lack of access to financial aid students is a primary reason. The on-campus store has a large portion of captive customers and there is no incremental value for the on-campus store to discount. The off-campus store typically can obtain a major portion of the non-captive customers through better service and there is little or no incremental value to the off-campus provider to discount. The net effect is that this is one of the few retail areas where fixed retail pricing still predominates.

D. **Response of Colleges and Education Boards.**

The response of HCCS is typical of local responses around the country and can be summarized as "unconcerned". They do not appear to care whether the benefits of competition are extended to financial aid students. They have failed to address the issue despite repeated efforts to address the problem. In Texas, the practice has continued despite efforts of the Texas legislature to address the problem. This may be due, in part, to the financial incentives received by the colleges. Colleges collect substantial royalties from on-campus bookstore sales. Further, at state colleges, even though the royalties are paid for the use of college property and for "exclusive" access to book sales to financial aid students, the royalties earned are usually treated as "discretionary" funds which can be used by the chancellor for any discretionary purpose.

E. **Responses of U.S. Department of Education.**

The response of the Department of Education ("DOE") can also be summarized as "unconcerned". They do not appear to care whether the benefits of competition are extended to financial aid students. In fact, the DOE has gone out of its way to continue the present system. Correspondence obtained from the DOE under the Freedom of Information Act indicates that the DOE has acknowledged that on-campus bookstores are <u>not</u> "affiliated" with a college or university for DOE purposes. However, the DOE has cited the privacy provisions of the Family Educational Rights and Privacy Act ("FERPA") as requiring colleges to deny off-campus bookstores any access to student financial aid information and vouchers while, <u>at the same time</u>, permitting the use of financial aid information and vouchers by lessee-operated on-campus bookstores. This is despite the DOE's acknowledgement that such bookstores are not "affiliated" with the college or university for DOE purposes.

F. **Conclusion.**

The only practical way to increase bookstore competition and provide the benefits that competition brings is to permit active competition for the funds spent by financial aid students. The present financial aid system <u>precludes</u> competition and this must be changed. It seems that only Congress has the power and the ability to accomplish this result.

Senate Small Business Committee
September 21, 1998

If you have any questions or comments concerning this matter, please do not hesitate to contact me at your convenience.

Sincerely,

Richard C. Yount

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